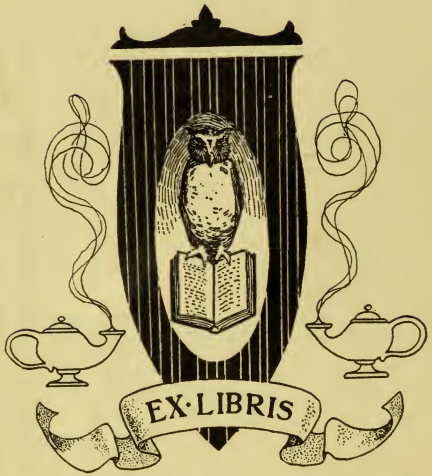

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To Dr Gibson &c &c
With the Author's best wishes

TRANSPORTATION

AND COLONIZATION;

OR,

THE CAUSES OF THE COMPARATIVE FAILURE

OF THE

TRANSPORTATION SYSTEM

IN THE AUSTRALIAN COLONIES:

WITH SUGGESTIONS

FOR ENSURING ITS FUTURE EFFICIENCY IN SUBSERVIENCY TO EXTENSIVE COLONIZATION.

BY JOHN DUNMORE LANG, D.D.

PRINCIPAL OF THE AUSTRALIAN COLLEGE, AND SENIOR MINISTER OF THE CHURCH OF SCOTLAND IN NEW SOUTH WALES.

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ADVERTISEMENT.

The following work was written at sea, in the course of the Author's last voyage from New South Wales to London, towards the close of the year 1836. Its main object is to point out to His Majesty's government, to members of parliament, and to the British public generally, the absolute necessity of some immediate and extensive change in the regulation and management of the transportation system in the Australian colonies, as also the means of effecting such a change without entailing any additional expense on the mother country, through the judicious application of the land-revenues of these colonies to the purpose for which they were originally destined; viz. in promoting an immediate and extensive emigration of virtuous and industrious families and individuals from Great Britain and Ireland to the colonial territories. Such an emigration would prove a seasonable relief at the present moment to those districts of the mother country, of which the inhabitants (as, for instance, those of the Highlands and Islands of Scotland) are at present suffering extreme destitution, from the want of employment and the want of subsistence. But it would also prove a measure of the soundest policy, both in regard to the future efficiency of transportation as a species of punishment, and to the moral welfare of the free inhabitants of the

Australian colonies. And when such a measure can be carried into effect, entirely with colonial funds and without increasing the public burdens of the nation, it is earnestly to be desired that the vigour and decision which alone are requisite on the part of His Majesty's government to carry it into operation may not be a wanting. For nothing less than a speedy, or rather an immediate, and extensive emigration of virtuous and industrious families and individuals from the mother country to the Australian colonies can possibly relieve these colonies from the baneful effects of past mismanagement, in regard to the treatment of transported criminals; or ensure to them a reputable moral character and a healthy tone of society for the future.

In regard to the particular part of the mother country, from which it would be desirable to effect an extensive emigration to the Australian colonies, with the view of exerting a salutary moral influence on the present colonial population, as well as of improving the condition of the emigrants themselves, it should be borne in mind, that as all convicts from Ireland,—of whom ninety-five per cent are uniformly Roman Catholics, and consequently from the southern parts of that island,—have hitherto been sent exclusively to New South Wales, an extensive emigration from that portion of the united kingdom to the Australian colonies would infallibly give so decided a

preponderance to the "Terry Alt and White Boy" elements of their actual population, as might hereafter most injuriously affect the peace and prosperity of the colonies. For as the leading Roman Catholics of New South Wales inform us that their communion already comprises not less than one-third of the whole colonial population, and as it is notorious that at least nineteen-twentieths of the Roman Catholics of that colony consist of convicts and emancipated convicts and their children—chiefly from the southern parts of Ireland;—it is evident that New South Wales, as a British colony, stands peculiarly in need of a free emigrant population of such a character as to neutralize and counteract, and not to increase and aggravate, the peculiar tendencies and characteristics of the south of Ireland population. There are other British colonies, to which the superabundance of that population may be sent with great benefit to all parties and with entire safety; but every intelligent person will surely allow that it ought not to be sent to that colony in particular which has been the general and exclusive receptacle for all the expatriated "Terry Alt and Whiteboyism" of Ireland for the last forty years.

A free emigrant population of such a character as that of the Highlanders and Islanders of Scotland is, both morally and politically speaking, the sort of population which is peculiarly re-

quired in the present circumstances and condition of the colony of New South Wales. And surely it would be no act of injustice in itself, as it would decidedly be an act of justice as well as of the best policy towards the colony, to appropriate a large portion of the available colonial funds in carrying out as many thousands of the virtuous and industrious inhabitants of that part of the united kingdom to New South Wales, as would equal in number the thousands of convicts that have been already carried out to that colony, entirely at the cost of the British public, from the southern parts of Ireland.

As a large portion, therefore, of the inhabitants of the Highlands and Islands of Scotland are at present supplicating for relief under the pressure of alarming destitution, and as the friends and well-wishers of that interesting portion of the inhabitants of the united kingdom uniformly point to emigration as the only means of permanent relief; it is earnestly to be desired that His Majesty's government will act in the matter with all the vigour and decision which the case so imperatively requires; as in so doing, they will infallibly promote the best interests of the Australian colonies, as well as those of the mother country.

London, 24th March, 1837.

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TRANSPORTATION

AND

COLONIZATION.

CHAPTER I.

SKETCH OF THE ORIGIN AND HISTORY OF THE TRANSPORTATION SYSTEM.

The punishment of banishment or exile, whether implying the mere expulsion of the criminal from his native country, or his transportation to some place of bondage and hard labour beyond seas, was equally unknown to the Jewish law and to the practice of primitive antiquity. In the turbulent republics of ancient Greece banishment was more frequently the lot of some patriot of commanding talents and splendid achievements, such as Miltiades, Themistocles, or Aristides; or the fate of some political minority, borne down in its death-struggle for ascendancy by the overwhelming force of an opposing faction; than the just award of the laws of the land for crimes and misde-

meanours. On such occasions, whether it was the aristocratic or the democratic party that had gained the upper hand in the petty commonwealths of Athens, of Corinth, or of Thebes, large bodies of obnoxious citizens were obliged, from motives of prudence as well as from sheer necessity, to submit simultaneously to voluntary exile, and to search for a home and a country on the coasts of Asia Minor or in the Ionian Islands, in Italy, and the island of Sicily, or even on the remote coast of France. Indeed, to suppose, with the celebrated Italian writer Filangieri, that there was anything analogous to the penal settlements of modern times, in the origin and constitution of the ancient Grecian colonies, merely because the latter were not unfrequently founded by bands of exiles, is egregiously absurd.*

Banishment or transportation, in all its degrees of severity, was known, as a species of punish-

* "Quand *l'experience de toute l'antiquité*, et surtout *les exemples d'un grand nombre des colonies de la Grèce*, ne nous attesteroient pas que le rebut d'une nation peut devenir une excellente société publique; quand *l'histoire de nos temps modernes* ne nous offriroit pas *un pareil spectacle*, la raison seule nous feroit sentir qu'il est possible de faire d'un malhonnete homme un homme de bien, en l'éloignant du théâtre de ses crimes, de son infamie, de sa condamnation."—Filangieri, *La Science de la Législation.* (French translation.)

ment, to the Roman law, especially during the times of the empire. Previous to the era of Augustus, banishment was a legal commutation of punishment for certain capital offences: the Roman law subjecting the criminal *perdere aut vitam aut patriam*; or, in other words, awarding him the punishment of death, if he should be found, after a certain period, within the precincts of Italy. When the criminal had either escaped from justice or had not been apprehended, the sentence of *aquæ et ignis interdictio* (prohibiting all and sundry, under the severest penalties, from supplying him with the necessaries of life, or from receiving him into their houses,) was pronounced against him; and this sentence became, in process of time, the usual form of a sentence of banishment from Italy. These practices and enactments of the ancient Roman law appear to have been afterwards naturalized and established in most of the states of modern Europe. By the law of England, for example, a criminal, who had committed a capital offence, was in certain cases permitted to escape with his life, on condition of his *abjuring the realm*, or quitting the kingdom. In such cases, the oath of *abjuration* was administered to the criminal by the coroner of the district, and a cross was placed in his hand, to ensure him protection on his journey to the limits of the

kingdom. In reference to this ancient practice it is worthy of remark, that in the preamble of the Act 4 George I. cap. 11. regulating the transportation of criminals to America, one of the grounds of that enactment is stated to be *the failure of those who undertook to transport themselves.* Banishment from Scotland was in like manner the appropriate award of certain crimes and misdemeanours, by the laws of that ancient kingdom; which, it is well known, were more generally formed on the Roman model than those of England: and in both kingdoms the sentence of outlawry, coupled, as it usually was in the savage practice of the Stuarts, with the additional sentence of "intercommuning," as it was designated by the law of Scotland, was a mere copy of the Roman judicial sentence of *aquæ et ignis interdictio;* the outlawed or intercommuned person being placed under the ban of the kingdom, and all persons being prohibited, under pain of death, from supplying him with the necessaries of life.*

* The term *Banishment* proclaims its own origin and primitive meaning; being derived from the practice of placing obnoxious individuals or communities under the *ban* of the German empire. *Ban, bannir, banni; Ban, banish; Ulrich, Der Verbannte, Gross-Hertzog von Wurtemberg.*

The following lines, from Spenser's minor poem entitled

One of the latest instances in which the sentence of "intercommuning," founded on the Roman judicial sentence of *aquæ et ignis interdictio*, was carried into effect against an individual harbouring an outlaw within the realm of England, was in the year 1685, shortly after the commencement of the reign of James II. when certain persons, who had been concerned in the duke of Monmouth's rebellion, were in concealment in London. One of these persons had thrown himself upon the charity and compassion of a benevolent lady, of the baptist persuasion, whose affecting story is related by bishop Burnet in his 'History of His Own Times.' *

'Heavenly Love,' afford an instance of the primitive meaning of this word :—

But he our life hath left unto us free,
Free that was thrall, and blessed that was *band*:

i. e. accursed.

* "There was in London one Gaunt, a woman that was an anabaptist, who spent a great part of her life in acts of charity, visiting the gaols, and looking after the poor, of what persuasion soever they were. One of the rebels found her out; and she harboured him in her house, and was looking for an occasion of sending him out of the kingdom. He went about in the night, and came to hear what the king had said, viz. that he would sooner pardon the rebels than those who harboured them. So he, by an unheard-of baseness, went and delivered himself, and accused her that harboured him. She was seized

The emperor Augustus introduced several important modifications of the ancient Roman law on the subject of banishment, and may be said to have laid the foundations of the modern system of transportation. For certain political crimes or misdemeanours, which did not render the offender infamous in the eye of the law, he established a species of punishment called *relegatio*, or *banishment*, properly so called; implying either tem-

on and tried. There was no witness to prove that she knew that the person she harboured was a rebel, but he himself: her maid witnessed only, that he was entertained at her house. But though the crime was her harbouring a traitor, and was proved only by this infamous witness, yet the judge (Jefferies) charged the jury to bring her in guilty, pretending that the maid was a second witness, though she knew nothing of that which was the criminal part. She was condemned, and burnt, as the law directs in the case of women convicted of treason. She died with a constancy, even to a cheerfulness, that struck all that saw it. She said, charity was a part of her religion, as well as faith: this at worst was the feeding an enemy: so she hoped, she had her reward with *Him* for whose sake she did this service, how unworthy soever the person was that made so ill a return for it: she rejoiced, that God had honoured her to be the first that suffered by fire in this reign, and that her suffering was a martyrdom for that religion which was all love. Penn, the quaker, told me, he saw her die. She laid the straw about her for burning her speedily, and behaved herself in such a manner, that all the spectators melted in tears."—*Bishop Burnet.*

porary or perpetual banishment to a particular place or district, but without affecting the rank or fortune of the individual as a Roman citizen. Of this species of banishment, history records two famous instances, both of which occurred during the reign of Augustus. The one was that of the poet Ovid, who, for some personal offence he had given the emperor, of the nature of which we are not sufficiently informed by the historians of the age, was *relegated*, or banished for life, to a small town on the Euxine or Black Sea. The other was that of Archelaus, the son of Herod the Great, and king of Judea, shortly after the birth of our Lord Jesus Christ: for certain complaints having been preferred against that monarch by his own subjects, he was deprived of his regal dignity and government by order of the emperor, under whose protection Judea then was, and *relegated*, or banished for life, to a city in Gaul or France.*

For infamous crimes, such as are now designated *felony*, the emperor Augustus instituted a second description of banishment, designated *deportatio*, or transportation; implying banishment for life, either with or without hard labour, to a certain place or district. It was doubtless to this species

* By this event, kingly government was entirely abolished in Judea, which became thenceforth a Roman province. *The sceptre* then *departed from Judah.*

of banishment that the famous edict of the emperor Claudius, referred to in the eighteenth chapter of the Acts of the Apostles, subjected all persons "infected," to use the phraseology of the Roman historian, "with the Jewish and Egyptian superstitions;" for on its being decreed in the Roman senate that four thousand criminals of this description should be transported to Sardinia, to be employed in the public works of that island, the philosophical historian, alluding to the extreme insalubrity of the climate, and the consequent probability that the criminals would speedily die, coolly observes that "the loss" in that case "would be insignificant."* It was probably also to this species of banishment that the apostle John was subjected in the island of Patmos; the profession of Christianity being then regarded by the Roman magistrates as an infamous crime. At all events, it is evident from these instances, that penal settlements were established and maintained by the Romans, for the reception and employment of transported criminals, in the island of Sardinia and in the isle of Patmos.

The first of the European nations that followed the example of the Romans in the formation of such settlements were the Portuguese and the

* "Vile damnum," Tacit. Annal. lib. ii.

Spaniards. The latter, indeed, do not appear to have acted so systematically in this respect as the former; having merely extended pardon to certain descriptions of criminals confined in the gaols of the mother country, on condition of their enlisting as soldiers or sailors, or as menial servants generally, to be employed exclusively in the colonies in the New World. The Portuguese, however, appear to have been long in the habit of sending regular draughts of convicts, to be employed in hard labour, to their colonial settlements on the coast of Africa and in the East Indies; and, at the present day, convicts from the Brazils are transported to the penal settlement of Fernando da Noronha, an island situated on the fourth parallel of south latitude, off cape St. Roque, on the coast of South America.

By the statute of 39 Elizabeth, cap. 4., banishment, implying merely expulsion from the kingdom, was decreed for the first time in England as the punishment of "dangerous rogues and vagabonds." In the exercise of his royal prerogative, however, James I. was pleased virtually to convert this statute into "an Act for the transportation of criminals to America;" by addressing a letter to the treasurer and council of the colony of Virginia, in the year 1619, "commanding them to send a hundred dissolute persons to Virginia, which the

knight-marshal would deliver to them" for that purpose. The practice of transportation to the American colonies, which was thus irregularly introduced into Great Britain, continued during the seventeenth and eighteenth centuries until the commencement of the war of American independence. At first, if we may credit the testimony of a contemporary historian, "the convicts who were thus transported were very acceptable to the colonists," to whom they were generally indented for a certain period, at a certain fixed rate per head, by ship-masters, who carried them over from England on speculation; the colonists considering that "their labour would be more beneficial in an infant settlement, than their vices could be pernicious."

Great inconveniences, however, were at length found to arise from the great number of "dissolute persons," who were thus from time to time turned loose upon the American colonies; where, it would seem, they were subjected to no other restraint than that which was implied in the right to their services for a certain limited period, which their respective masters had purchased from their importers. Besides, in proportion as the importation of negro slaves into the American colonies (which was then promoted to the very utmost by the British government) was increased

and extended, convict-labour became less and less valuable in these colonies than it had previously been; while the extreme impolicy of exhibiting white men in a state of slavery, in the midst of a gradually increasing black-slave population, became more and more apparent. Accordingly, as soon as the "calculating" colonists of the American plantations found that kidnapped negroes from the coast of Africa, whom they had bought with their money at a comparatively low price, and reduced to hopeless and hereditary slavery, with the sanction and encouragement of the British parliament, were healthier and more robust, besides being more easily controlled, and altogether a better bargain than criminals from England, they began gradually to testify their reluctance to have any additional consignments of convicts thrown into their respective territories; or to be thus made the felon-drivers as well as the negro-drivers of the empire. If I am not greatly mistaken, it was the people of Barbadoes, that slave-holding colony "of old extent," that first testified this extreme delicacy of feeling; in which, however, they were soon followed by the slave-holders of Maryland, whose colonial legislature passed an Act, so early as the year 1692, prohibiting ship-masters from landing convicts in that colony. Similar sentiments were afterwards expressed by

the people of New York: and, at a still later period, when the celebrated Dr. Franklin, remonstrating with the British ministry, as a delegate from the colonists of Pennsylvania, against the practice of forcing convicts upon the people of that colony, was told that it was absolutely necessary to remove them from England, and that they must therefore continue to be transported to America; he replied, by asking the ministers, *If the same reason would justify the Americans in sending their rattle-snakes to England.*

So early as the year 1697, or during the reign of king William III., the remonstrances of the American colonists, and the difficulty of disposing of the transported convicts, appear to have directed the attention of the British government to the subject of transportation; for, in a letter addressed to the chairman of the committee of the House of Commons on secondary punishments, and appended to their printed report for the year 1831, the following memorandum appears:—

"At the Court at Kensington, the 25th of November, 1697.

"Present, the King's Most Excellent Majesty in Council. Upon reading this day, at the Board, a representation from the Council of

Trade, relating to the transportation of convicts to the plantations, and the difficulty of disposing of such convicts there: It is ordered by His Majesty in Council, that it be referred to the Council of Trade, to consider how and to what places convicts, which shall be pardoned upon condition of transportation, may be best and most effectually disposed of; or what other punishment might be proper for such convicts in lieu of transportation to His Majesty's colonies in America.

(Signed) JOHN POVEY."

It would seem, however, that there were still many of the colonists in America who were willing enough to receive the convicts transported from the mother country on the usual terms; for not only was there nothing done by the British government in the way of finding another mode of disposing of these convicts, or another place of transportation, but, in the preamble of the Act 4 George I. cap. 11., already referred to, one of the grounds of that Act, which was merely intended to provide for the better regulation of transportation, is stated to be "the great want of servants in his Majesty's plantations."

The inconveniences arising from the transportation of criminals to the North American colonies

continuing to increase, and the remonstrances of such men as Dr. Franklin and his constituents having at length produced their proper effect in the mother country, it was ultimately recommended by a committee of the House of Commons, "That provision should be made for transporting criminals to the coast of Africa and to the East Indies." This recommendation became the subject of debate in parliament in the year 1770, when it was successfully opposed by Sir George Saville on the following grounds, as stated in Cobbett's 'Parliamentary History' of that year.

1st, That sending criminals to these climates was, in other words, consigning them to death.

2nd, That unless the African and East India Companies were ordered to take them, and pay for their passage, *it would be impossible to get them there, as at present the expense of sending them was paid by the convicts themselves;* for in case the convicts could not pay it, the masters of the ships who carried them out had a right by the laws of the plantations to sell them for the time the law condemned them: whereas it was not worth the while of the India Company to purchase them at so high a rate, unless for soldiers, for which purpose they were already permitted to take them.

3rd, If sent to Africa, it was to be "feared, that

by filling the African forts with inhabitants of this nature, great danger might accrue to the settlements; as the neighbouring negroes, always ready to destroy the forts, and joined by these desperadoes, might seize them."

Transportation to the American colonies was consequently continued for a few years longer; but the issue of the war of American independence having rendered all further debate on that subject unnecessary, the British government ultimately felt themselves obliged, from sheer necessity, either to fix upon some new place for the transportation of criminals forthwith, or to discontinue the practice altogether; the unprecedented accumulation of criminals in the common gaols of the kingdom during the war, and for some time after its termination, being an evil of such enormous magnitude as to require an immediate and effectual remedy. In this conjuncture various expedients were proposed. A plan for the establishment of penitentiaries, strongly recommended by judge Blackstone, the honourable Mr. Eden, (afterwards Lord Auckland,) and the philanthropist Howard, was for some time under favourable consideration, but was afterwards found inexpedient, and ultimately rejected. Confinement in the hulks, however, with hard labour at public works, which was intended as a modification of this plan, was ordered

to be adopted partially. The formation of a penal settlement on the west coast of Africa, which was also proposed a second time, was again rejected, on the grounds on which the transportation of criminals to that country had already been successfully opposed by Sir George Saville sixteen years before; and it was at length determined, after much and earnest deliberation, to form a penal settlement at Botany Bay, on the east coast of New Holland, which had then been but recently discovered and described by the celebrated English circumnavigator, captain Cook. A penal settlement was accordingly formed at Port Jackson, a few miles to the northward of Botany Bay, under the command of captain Phillip, of the Royal Navy, in the year 1788; the first detachment, commonly called the First Fleet, consisting of six hundred male and two hundred and fifty female convicts, under a guard of about two hundred marines (including officers), forty of whom were accompanied by their wives and children; the Second Fleet, which arrived in the year 1790, carrying out one thousand six hundred and ninety-five male, and sixty-eight female convicts.

CHAPTER II.

STATEMENT OF SOME OF THE ADVANTAGES OF TRANSPORTATION, AS A SPECIES OF PUNISHMENT.

THERE have recently been writers of considerable eminence in Great Britain opposed to the continuance of the transportation system, as a species of punishment, altogether; holding that it must necessarily fail of accomplishing either of the two grand objects of punishment,—*the prevention of crime* and *the reformation of criminals.* Among writers of this class, Archbishop Whately has taken the lead; advancing a series of arguments, of an *a priori* aspect, against the whole system of transportation, which however are all evidently founded on admitted facts and statements of an *a posteriori* character, illustrative merely of the manner in which that system has hitherto been administered, or, to speak the plain

truth, in which its administration has been grossly mismanaged, in the Australian penal colonies. Having been led, after a residence of upwards of thirteen years in these colonies, to view the subject in a somewhat different light from that in which it has thus been viewed by the Archbishop of Dublin; and having been enabled to ascertain, from long experience and careful observation, the real character and tendency of transportation, as a species of punishment, apart from those accidents, arising solely from the grossest mismanagement, which have, unfortunately for the empire, made it assume for the time a totally different character, and exhibit quite an opposite tendency; I propose in the sequel of this treatise to state the result of my experience and observation, and the grounds of the opinion I have formed.

The efficacy of transportation, whether as a means of preventing crime or of reforming criminals, must evidently depend entirely on the manner in which the transported criminals are managed; that is, on the character and efficiency of the penal discipline to which they are subjected, and on the circumstances in which they are placed, both before and after the termination of their period of bondage, or penal servitude, in the place of their transportation: in other words, transportation must either be efficacious for the

accomplishment of its object, or the reverse, in proportion as it comes up to the proper idea of a punishment, or falls short of it. "The points which most persons would look to," observes Archbishop Whately, in his letter to Earl Grey, "as important requisites in any kind of punishment that is to be awarded, are,—first, and above all considerations, that it should be *formidable*; *i. e.* that the apprehension of it should operate as much as possible to deter men from crime, and thus to prevent the necessity of its actual infliction: secondly, that it should be *humane; i. e.* that it should occasion as little as possible of useless suffering,—of pain or inconvenience that does not conduce to the object proposed: thirdly, that it should be *corrective*, or, at least, not corrupting; tending to produce in the criminal himself, if his life be spared, and in others, either a moral improvement, or, at least, as little as possible of moral debasement: and, lastly, that it should be *cheap*; such as to make the punishment of the criminal either absolutely profitable to the community, or, at least, not exceedingly costly."

Let transportation then be dispassionately examined by these tests, and I am confident the result will not be unfavourable to its adoption as a species of punishment.

1. In regard then to the first requisite in a

punishment, viz. that it should be *formidable*, Archbishop Whately proposes to substitute for transportation solitary confinement in penitentiaries, and hard labour under efficient superintendence in England. But there is surely nothing more *formidable* in solitary confinement and hard labour in England, than there is in solitary confinement and hard labour at a penal settlement on the coast of New Holland. Solitary confinement by night may be impracticable in the case of convicts employed at hard labour of certain descriptions at a penal settlement; as, for instance, in road-making, the place of encampment in such cases requiring to be frequently changed: but even in these cases, the difficulty, I conceive, might be easily got over in a country abounding in forest-timber. That there should be any difficulty, however, in subjecting a convict under sentence of transportation to as hard and incessant labour at a penal settlement in New Holland as it is possible to subject him to in England, I cannot conceive: on the contrary, the facilities of apportioning the comparative severity of the labour to the comparative criminality of the convict, are much greater in a new country than in one in a high state of improvement. The labour, for instance, required in the various operations implied in road-making, in a country of broken surface

and hot climate—the felling of hard timber, the blasting of immense rocks, the filling up of deep cavities with stones and earth, to be carried often from a considerable distance—such labour is unquestionably hard, irksome, and *formidable* in the extreme. That transportation should imply such labour in every instance, without exception, is, I apprehend, the intention of the legislature. That it has not implied any thing of the kind, however, in the past practice of the Australian colonies, is to be imputed entirely to the Executive, both at home and abroad. And, if under such practice transportation has ceased in a great measure to be formidable in England, and consequently to be efficient as a means of preventing crime, the fault is not to be ascribed to the transportation system, but to a system of colonial mismanagement, which no person but the inmate of a lunatic asylum would attempt to defend. Let that system, therefore, be immediately discontinued, and a system of management pursued for the future, in accordance with the principles of right reason, and transportation will, I am confident, become as formidable as Archbishop Whately could desire.

For a considerable period after the penal colony of New South Wales was originally established, the idea prevalent among all classes in England was, that transportation was a measure of great severity

to the convict, a condition of incessant labour and extreme privation. I have reason to believe that this idea was well-founded; and accordingly so great was the terror with which the very idea of transportation inspired criminals in the mother country, that in Mr. Montagu's work on the 'Punishment of Death,' there are well-authenticated instances adduced of female convicts, under sentence of death, actually refusing their lives on the condition of being transported to Botany Bay. So long therefore as this idea prevailed, transportation was really *formidable* as a punishment, and the prospect of such a punishment must consequently have operated in the way of prevention as strongly as that of any other punishment whatever. Why it afterwards ceased in great measure to be operative in this way, will appear sufficiently obvious in the sequel.

2. In regard to the *corrective* or reformatory character and tendency of transportation; this also must depend in great measure, if not entirely, on the treatment to which the criminal is subjected, and the sort of penal discipline through which he has to pass in the place of his transportation. Antecedently to all experience on the subject, "reason itself would teach us," to use the language of Filangieri already quoted, "that it is possible to transform a bad man into a good one,

by removing him from the theatre of his crimes, of his infamy, and of his condemnation:" and, unfavourable as the circumstances of the Australian penal colonies have generally been for ensuring the reformation of criminals, I am enabled to state, from my own experience and observation, that this second object of punishment has actually been attained in these colonies in many instances; and that such instances would, in all probability, have been tenfold more numerous, but for the circumstances and events, connected with the administration of penal discipline in the Australian colonies, hereinafter to be detailed. Indeed, I am confident, from all I have seen and heard in these colonies, that the rigorous enforcement of a proper system of penal discipline in New South Wales and Van Dieman's Land would have proved *corrective* or reformatory in the highest degree.

It is well observed by Archbishop Whately, that the criminal population of England is not a fixed quantity, which will be permanently diminished by the abstraction of a certain portion of its gross amount, but a constantly increasing quantity; the abstraction effected by transportation necessarily accelerating, as he imagines, the rate of increase. I observe, however, in reply, that if transportation is so managed as to prove

both formidable and corrective, or preventive and reformatory, which I conceive it must necessarily be under a proper system of management, it will no longer have the effect of accelerating the rate of increase of crime in England, even taking it for granted that it actually produces that effect at present. Besides, there is a large proportion of the criminal population in England which there is no prospect nor probability of reforming under any process of penal discipline that can be had recourse to in the mother country ; and it is chiefly the influence and example of that class of criminals,—those that have been already punished but are still unreclaimed, — that tend in the highest degree to the increase of crime, by drawing innocence and inexperience within the vortex of criminality. The steady increase of this class of criminals, constituting what Captain Basil Hall, in his evidence before the committee of the House of Commons on secondary punishments, styles "the culprit population" of the country,—criminals who form the regular inmates of its gaols and penitentiaries, and who are no sooner dismissed from one place of confinement than they find their way to another,—has been observed and deplored even in the United States of America. The gradual abstraction of this class of criminals, under a properly organized system of transportation,

could have no tendency to increase the sum total of crime in England; on the contrary, it would tend directly to diminish it. And if these criminals were transported to a far distant settlement, in which, after their period of punishment had expired, new scenes and new circumstances would open up to them new prospects, (while their hopeless removal from the theatre of their former crimes would also shield them from the influence of their former temptations,) I am confident that, in the greater number of instances, they would also manifest new dispositions, by pursuing a new course of life.

3. And surely such a mode of treating a criminal, (I mean, a criminal who has already undergone punishment in England,) is unspeakably more *humane* than the one recommended by Archbishop Whately, and pursued in the United States of America,—that of sentencing him again and again to imprisonment and hard labour in gaols and penitentiaries, till at last, in perfect recklessness, he comes to regard a prison as his home and his country;—and the hopeless condition of his existence, that of enmity towards the whole human race.

"That a punishment," observes Beccaria, "may not be an act of violence of one or of many against a private member of society, it should be public,

immediate, and necessary; the least possible in the case given, proportioned to the crime, and determined by the laws." Now all these conditions may be realized in transportation; or, in other words, the period and the degree of severity may be duly apportioned beforehand for each particular case of criminality, by a wise and humane legislature, and the legal award duly enforced thereafter by a firm and unflinching executive: for it is another principle, advanced by that high authority, that "the legislators should be merciful, but the executors of the law inexorable." Indeed, it is inattention to these two great principles of penal jurisprudence, that has rendered the punishments inflicted under the law of England so generally inoperative as they have hitherto proved. The acknowledged sanguinary character of certain of the awards of that law gradually and insensibly relaxed the hands of the executive, and caused the sword of justice to fall powerless from their grasp; and this principle of relaxation having been once admitted into practice, it extended, in process of time, to cases in which the awards of the legislature were originally neither sanguinary nor severe. This has been especially the case in regard to the punishment of transportation, as it has hitherto been administered in the Australian colonies. That punishment was originally a hu-

mane award of the executive towards individuals who had forfeited their lives to the community: but, by a system of pardons and indulgences the most injudicious and unwarrantable, it has been rendered in many instances a complete mockery of all law and justice. It has been well remarked by Rousseau, that, "under the Roman republic, neither the senate nor the consuls ever attempted to grant pardons," and that "the frequency of pardons indicates that in a short time crimes will not stand in need of them." I am sorry to add, that while the Roman practice has been but little followed, we have had abundant evidence of the natural result and the necessary consequence of neglecting it in the Australian colonies.

4. In regard to the cost of transportation, as compared with other modes of punishment, Archbishop Whately observes, "That this point is of far less consequence than the others; and of less than it is, I think, usually considered; but still is one which must not be entirely overlooked, since a failure in this point, inasmuch as it admits of infinite degrees, might conceivably be such as to amount to a very serious evil." I am disposed to concur with His Grace in considering the comparative cost of any description of punishment as by no means a point of primary importance; as it is possible that the cheapness of a particular

species of punishment might affect its efficiency, and prove an encouragement to crime. At the same time, in a country, of whose population there are uniformly 50,000 souls and upwards in the state of convicts, either at penal settlements beyond seas, or in hulks, gaols, and penitentiaries at home, the subject of expense is not to be disregarded, especially in the present age of *political economy*. I maintain, therefore, that transportation, if at all rightly managed, is, of all possible modes of maintaining a convict during the period of his penal servitude, the most economical; besides presenting the additional advantage of permanently ridding the country of the irreclaimable portion of its culprit population.

In regard to the comparative expense of the penitentiary system, which Archbishop Whately proposes to substitute for transportation, the Report of the Parliamentary Committee on secondary punishments for the year 1832 contains the following information :—" The great expense of maintaining the convicts has been urged against the penitentiary system : it appears, that since the opening of the prison in 1824, the cost per head has varied from £30. 3*s.* per annum to £57. 12*s.* 2*d.* The expense, however, incurred since 1824 does not give a fair view of the necessary cost. The greatest number of prisoners confined at one time

since 1824 has not exceeded 551 males and 143 females; but the prison is capable of containing, by the conversion of the workshops (which, by the abolition of the second class, are no longer wanted,) into separate cells, 796 males and 380 females: but as no proportionate increase of establishment would be required, the expense per head would be materially diminished."

The expense of the maintenance of convicts in New South Wales will appear from the following colonial

Return of the number of prisoners maintained by government in road and chain gangs, gaols and penal settlements, and the average yearly cost of each: 13th of July, 1836.

Maintained in	Number of Prisoners	Average yearly cost of each, including every charge		
		£.	s.	d.
Road-gangs	982	9	9	$10\frac{1}{2}$
Chain-gangs	1191	10	3	$6\frac{1}{2}$
Gaols	646	13	4	$6\frac{1}{4}$
Penal settlements	1250	10	16	$6\frac{1}{2}$
Total	4069			

As road and chain gangs are the usual modes in which government employ the convicts that are not assigned to private settlers in New South Wales, the average yearly cost of maintaining a convict in that colony may be stated at £10.

Supposing, therefore, that each convict under sentence of transportation for fourteen years or for life is to be maintained in such gangs in New South Wales for seven years, the whole cost of the maintenance of each transported convict during that period, allowing £15 additional for the payment of his passage-out,* will not exceed £85, or £12. 2*s*. 10¼*d*. per annum. But even admitting that the cost of the maintenance of convicts in penitentiaries in England could be reduced generally to the lowest rate to which it had ever been actually reduced during eight years previous to the year 1832, viz. to £30. 3*s*. (the average cost varying from that amount to £57. 12*s*. 2*d*.) the whole cost of the maintenance of a convict in a penitentiary for seven years would amount to £211. 1*s*. or £30. 3*s*. per annum. Besides, supposing the penitentiary system to be the only one allowed by government for the future, the probability is, that in four cases out of every five, the liberated convict, after having served out his seven years and subjected his country to this

* During the year 1834, the ship Norfolk was chartered to convey convicts to New South Wales or Van Dieman's Land, at a rate which cost the government £6 for each convict: their provisions, at the rate of 9*d*. a day for 120 days, would cost £4. 10*s*. additional. Other items might, perhaps, raise the cost for each convict to about £15.

enormous expense, will very soon find his way back again to his old quarters, and subject the country to a second burden of a similar kind. If transported, however, to a penal settlement on the coast of New Holland, the probability is, that in ninety-nine cases out of every hundred, the country will be rid of him for ever. There can be no question, therefore, as to the comparative eligibility of the transportation system in the article of expense.

Connected with this branch of the subject, there is another consideration of great moment. Convict labour is a species of public property, which the state has a right, and is in duty bound, to turn to the best account for the public benefit: but there can be no question as to whether convict labour can be employed more advantageously for the public in the colonies, where labour is in requisition and proportionably valuable, than in the mother country, where it is in superabundance and proportionably cheap. Under a proper system of management the labour of a convict at a penal settlement might be made to produce on the Australian continent double, triple, or even four times the whole cost of his maintenance; whereas in England it will only produce a small portion of that cost, even under the best management. Besides, in the latter case, it comes into competition

with free labour, and proves a source of grievance to the free labourer.

"Convicts should never be allowed," says Archbishop Whately, "as in New South Wales, to be employed and paid by farmers;" a sentiment in the propriety of which I entirely concur: "but the superintendents might contract for the levelling, draining, or trenching, &c. of a piece of ground," (that is, in England,) "and would thus set the convicts to work under their own inspection: and though *the payment for this, and indeed any other labour of convicts, could seldom be expected to cover the cost of their maintenance* and other expenses, it might still be regarded as so much clear gain, since they must be maintained at any rate."

The Archbishop, therefore, virtually proposes that the superintendents of convicts should underbid free labour in the home-market, and thereby take the bread out of the mouth of the free labourer, who is employed in England, perhaps, at a shilling a day; or in Ireland, as was lately the case near Limerick, up to his knees in water too, for not more than fourpence! But would such a measure, on the part of government, be tolerated by the labouring poor in a free country? or rather ought it to be tolerated? Would not insurrections, rick-burning, prison-breaking, martial law, and

ten thousand convictions for sedition be the result?

But let the superintendents and convict labourers be only transferred to New South Wales, and there will be no fault found by any party, at whatever rate they should contract for the formation of a thousand miles of good road, for the construction of several good harbours in suitable localities, or for clearing, levelling, draining, and trenching any extent of land. Various public works of this kind are urgently required by the colony at present, but cannot be accomplished *for want of labour*, although the colonial government is both able and willing to pay for that labour from the colonial treasury. Nay, the greater the amount of free labour that shall be imported in future into New South Wales, and employed in agriculture and grazing, in commerce and in the mechanical arts, the greater will be the colonial demand for labour of the very kind for which the Archbishop's superintendents would be inclined to contract; and the more able will the colony be to pay for that labour. Supposing, therefore, that all other things were equal, it would be both the interest and the duty of government to employ convict labour at penal settlements beyond seas, rather than at home.

This principle, I am happy to state, is in perfect

accordance with the views of the ablest continental writers on the subject of punishment. These writers, indeed, have had no previous experience of the natural tendency and operation of the transportation system; but in this particular they are not more unfavourably situated for offering a well-founded opinion on the subject than Archbishop Whately, who argues against that system, not from its natural tendency, but from its past mismanagement. "Les peuples," says Filangieri, in his work already quoted on the Science of Legislation, (French translation,) "Les peuples qui possèdent des pays dont la population ne suffit pas pour animer leur agriculture et leur commerce, et étendre ou soutenir leur industrie, ont un moyen de plus que les autres pour punir certains délits, et faire servir les perturbateurs de la société à l'accroissement de la richesse publique."

CHAPTER III.

TRANSPORTATION TO THE AMERICAN COLONIES BEFORE THE WAR OF INDEPENDENCE, CONTRASTED WITH THE SYSTEM PURSUED IN THE AUSTRALIAN SETTLEMENTS.

It is no longer possible to ascertain with any degree of accuracy the number of convicts transported to the West Indies and the American colonies previous to the war of American independence. During the publication of the *Encyclopédie Méthodique*, in the year 1785, the article *Etats Unis* was submitted by its author, M. Meusnier, to President Jefferson, who was then American minister plenipotentiary at the court of France; and, in reference to this class of persons, to which the French editor had alluded as one of the three classes that peopled America, Jefferson supplied him with the following remarks:—

"The malefactors sent to America were not sufficient in number to merit enumeration, as one class out of three that peopled America: it was at a late period of their history that this practice began. I have no book by me which enables me to point out the date of its commencement; but I do not think the whole number sent would amount to two thousand; and being principally men eaten up with disease, they married seldom, and propagated little. I do not suppose that themselves and their descendants are at present four thousand, which is little more than one-thousandth part of the whole inhabitants."—'Memoirs and Correspondence of President Jefferson,' vol. i. p. 406.

It is pretty evident, from the tenour of these observations, that this was by no means a favourite subject with the worthy plenipotentiary; whose native patriotism, as well as his laudable desire to make his countrymen stand as well as possible with their good allies, doubtless induced him to throw a little American dust into the eyes of the French encyclopedists: for while he would induce the reader, at the commencement of his remarks, to believe that not more than two thousand English convicts had ever been transported to America altogether, he intimates, at the close

of them, that this estimate referred to the colony of Virginia alone; the comparison which he institutes being made with the population of that colony at the commencement of the war, and not with that of the United States generally. On the publication of Governor Phillip's 'Voyage to New South Wales' in the year 1790, an estimate of the number of convicts annually transported to America, for some time previous to the war, was made expressly for that work, (if I am not mistaken, by the Honourable Mr. Eden, afterwards Lord Auckland, a nobleman who had much better access to correct information on the subject of transportation than President Jefferson; who besides had no prejudice to bias him respecting it, and who had himself been in America, in the capacity of envoy-extraordinary from Great Britain during the war;) and the result of that estimate was, that the number so transported had been about two thousand every year.* Allowing, however, that this estimate was as much above the truth as President Jefferson's was below it, I conceive it may be taken for granted, that, as the system of transporting criminals to America had been in practice

* The number transported to New South Wales and Van Dieman's Land has been as high in one year as six thousand; but the average number is considerably lower.

from the year 1619, or for one hundred and fifty-seven years previous to the American declaration of independence, as many convicts had been transported to America during that period as would have amounted to at least five hundred every year for a whole century previous to the American war, or to fifty thousand altogether.

It would seem that none of these convicts were ever transported to that part of the American territory called New England, comprising the states of Massachusetts, Connecticut, New Hampshire, Maine, Vermont, and Rhode Island. The puritanical character and origin of the population of these provinces preclude such an idea. Indeed, we may estimate the feelings with which the virtuous New Englanders would have received any proposal of the kind, from a fact related by the Rev. Daniel Neale in his 'History of New England:' viz. that during the seventeenth century, a settler in one of the earlier settlements of Massachusetts or Connecticut having been found guilty of theft, was sentenced by the General Court (doubtless, following scriptural example and oriental practice) *to have his house pulled down and made a dunghill*, and to be sent back himself by the first convenient opportunity to England.

The American colonies, to which convicts were transported under the old system, were those of

Virginia, Maryland, Delaware, North Carolina, South Carolina, Georgia, New Jersey, New York, and Pennsylvania; the population of which amounted, at the commencement of the war, to 1,800,000, that of the New England colonies being about 700,000. It was therefore over a territory extending from north to south from six to seven hundred geographical miles, and of boundless extent to the westward,—a country, moreover, containing, at the close of the period referred to, a population of upwards of a million and a half,—that 50,000 British convicts were slowly dispersed in the course of a century and upwards. These convicts were literally "bought by the planters for the terms specified in their respective warrants, and worked with their negro slaves under the lash of an overseer," as is testified by a contemporary writer; for it would seem that the British government of that period never inquired how the convicts were treated in the American colonies, provided they were only prevented from returning home.

The testimony of President Jefferson, as to the convicts transported to America being generally eaten up with disease, seldom marrying, and having few children, is to be received with as many grains of salt as his statement as to their gross number. There is no reason for supposing that convicts would be more diseased on their

arrival in America sixty or eighty years ago, than convicts usually are at the present day on their arrival in New South Wales and Van Dieman's Land, especially when the captain had to sell them by auction on their arrival, to procure payment for their passage-out; and the probability is, that under such treatment as they were then subjected to in the American colonies, many of them would acquire industrious habits, and would settle themselves reputably in the New World on attaining their freedom. Supposing, however, that convicts, and the descendants of convicts, did not amount to more than one hundred thousand persons at the commencement of the American war, these individuals were not only scattered over a vast extent of territory, but commingled (so as to preclude all possibility of ascertaining their convict origin) with a population of upwards of fifteen hundred thousand souls.

It is not wonderful, therefore, that every trace of the convict origin of a certain proportion of the population of the United States of America should have disappeared entirely long ago. The free emigrant inhabitants of the American colonies were too numerous, from the very first, to permit persons of this class and origin to form a separate body in the community, far less to give the tone to society. The very complaints of the American

colonists, on the subject of the importation of convicts, demonstrate that society was constituted from the first on a right basis in America, notwithstanding the prevalence and operation of the transportation system for upwards of a century and a half; that the number of the free and untainted portion of the population was uniformly beyond all comparison greater than that of the transported criminals and their immediate descendants; and that, consequently, it could only have been through skilfully counterfeiting, if not really possessing, the character and habits of the reputable free man, that the liberated convict could ever hope to insinuate himself into society, on any thing like equal terms with his fellow-citizens, on the American soil.

It cannot be denied, therefore, that in so far as it actually prevailed, transportation to the American colonies proved highly efficient in securing the attainment of the great ends of punishment,—the prevention of crime and the reformation of criminals. That a somewhat similar system has proved by no means equally efficient in the Australian colonies, is, I believe, universally acknowledged: but when we contrast the state of things in these colonies, in reference to the gross amount of their convict population, as compared with the free emigrants of all classes, with the state of things

under the old colonial *régime* in America, the cause of the very different result of the more recent experiment becomes self-evident.

For upwards of thirty years after the first establishment of the colony of New South Wales, and for about fifteen years after that of Van Dieman's Land, these colonies were almost exclusively colonies of convicts.

The following statement of the population of New South Wales and Van Dieman's Land at the close of the year 1820, that is, thirty-three years after the former of these colonies was founded, will sufficiently exhibit the sort of materials of which society was originally composed in the Australian colonies:

Number of male convicts who had arrived in New South Wales and Van Dieman's Land, up to the close of the year 1820	22,217	
Number of female ditto . . .		3,661
	Total	25,878
Population of New South Wales in 1820	23,939	
Population of Van Dieman's Land .		5,468
	Total	29,407

Character and origin of the population of New South Wales in 1820.

Free emigrants	1,307
Adults born in the colony	1,495
Children	5,668
Convicts in actual bondage	9,451
Do. holding tickets of leave	1,422
Do. free by servitude	3,255
Do. pardoned	1,121
Persons employed in colonial vessels	220

Character and origin of the population of Van Dieman's Land in 1820.

Free emigrants	714
Adults born in the colony	185
Children	1,020
Convicts	2,588
Do. holding tickets of leave	368
Do. free by servitude	362
Do. pardoned	231

Such, therefore, was the character and origin of the actual population of New South Wales at the close of the thirty-third year of the existence of that colony, as the principal penal settlement of the British empire. Of a population of 23,939 persons at that period, there were only 1307 of the class of free emigrants, while not fewer than

15,249 were either convicts in actual bondage, or had arrived in the colony in that condition; or, in other words, the convicts and emancipated convicts were considerably more than ten times the number of the free emigrant population. Had the whole of these 1307 free emigrants been virtuous persons, one might well have asked, "What are these among so many?" but when it is borne in mind that a very considerable proportion of these emigrants consisted of dissolute persons, whose vicious example tended to demoralize the very convicts,—the peculiarly unfavourable circumstances in which the experiment of the transportation system, as a means of preventing crime and of reforming criminals, was made by Great Britain, will be sufficiently obvious.

There was doubtless a great change for the better during the governments of Sir Thomas Brisbane and Sir Ralph Darling, *i. e.* during the next ten years of the existence of the colony of New South Wales; a comparatively large number of respectable free emigrants having arrived and settled in the colony during that period, whose influence and example were highly favourable in discountenancing profligacy and criminality, and in encouraging the practice of virtue: but the disproportion of the free emigrant and convict classes of the community still continued to be felt, and to

manifest the same evil influence, although in a much smaller degree, on the general population. At the close of Sir Thomas Brisbane's government, in October, 1825, the population of New South Wales amounted altogether to 36,336 persons: of these there were

Convicts in actual bondage . .		14,200
Do. holding tickets of leave .		2,078
Do. free by servitude . . .		6,018
Do. pardoned absolutely or conditionally	1,208	
Total number of persons who either were or had been convicts .	23,504	
Free emigrants		3,150

There was, doubtless, at that period a native population of all ages of nearly 9000 souls; but it is evident that that population cannot be taken into account in estimating the character of the materials of which society was originally composed in the colony of New South Wales.

I have no account of the number of free emigrants and convicts who arrived in the colony during the first two years of the government of General Darling, but the following is a list of the number of persons of both classes who had arrived

during the eight years and a half previous to the 30th of June, 1836:—

Year.	Convicts.	Free Emigrants.	Total.
1828	2,712	596	3,308
1829	3,664	564	4,228
1830	3,226	309	3,535
1831	2,837	457	3,294
1832	3,268	2,006	5,274
1833	4,136	2,685	6,821
1834	3,161	1,564	4,725
1835	3,602	1,428	5,030
1836 till June 30,	1,796	675	2,471
	28,402*	10,284	38,686

Into a community, therefore, so unhappily constituted, both in a moral and political light, as I have shown that of New South Wales to have been from the first, there have been imported during the last eight years and a half, to counteract the naturally evil influence and to promote the

* The proportion of Roman Catholic convicts in ships from England is 10 per cent., that of Protestant convicts in ships from Ireland being 5 per cent: it is therefore evident and unquestionable, that the Roman Catholic religion has exceedingly the advantage of Protestantism in contributing to the prison population of convict colonies.

reformation of its convict population, (as well as of 28,402 *additional* convicts, imported during that period,) only 10,284 free emigrants of all classes and ages. If these ten thousand free emigrants had all been virtuous and industrious persons, I admit that their influence in neutralizing and counteracting the natural influence of this immense accumulation of depravity would have been exceedingly powerful; for not only is it true in New South Wales, as it was in ancient Rome, that "ipse aspectus boni viri delectat," ("the very sight of a virtuous man is refreshing,") but it is also true that such a man uniformly sheds a moral influence around him in that colony, the beneficial effect of which is incalculable, and which will not unfrequently make vice herself assume the aspect of virtue. Unfortunately for the colony, however, a considerable number of these ten thousand emigrants consisted of discharged soldiers and pensioners, who had been induced to commute their pensions for a free passage to the Australian colonies, and most of whom proved good-for-nothing, dissipated, and worthless characters. A large proportion of the remainder consisted of families and individuals of the class of mechanics, who had been assisted in effecting their emigration to New South Wales by colonial bounties in the shape of passage-

money. Of this class perhaps as many as three-fifths have been virtuous and industrious persons; the rest being a dead weight upon the colony, either from their indifferent moral character, or from the non-adaptation of their previous occupations and habits to the wants of the colony.

Of the free emigrants above mentioned, 1536 have been unmarried females, who had also been assisted in their emigration by bounties, in the shape of passage-money, from the revenues of the colony. But when we take into consideration the original constitution and character of colonial society, and the strong temptations to which unprotected females must in such a society be exposed; when we take into consideration the improbability of inducing any considerable number of really virtuous females to emigrate to a distant country, and especially to a convict colony, *without natural protectors;* and when we take into consideration also the artifices of individuals in the shipping line, who find this species of export trade by no means unprofitable;—it will not appear by any means surprising, that the system of *female emigration,* which has been pursued for several years past, under the direction of a Board in London professing to reform the Australian colonies, should, instead of producing any such reformation, have only added prodi-

giously to the previous amount of the immorality and criminality of the colony of New South Wales.*

* A few facts will serve to open the eyes of people of common understanding in England, as to the real character and tendency of the female emigration system. The David Scott, a female emigrant ship, chartered and *loaded with merchandise on his own private account* by Mr. John Marshall, agent of the London Board, arrived in Sydney about the beginning of November, 1834. Sixty of the females who formed part of her cargo were common prostitutes; forty of whom were so thoroughly vile, that my informant, a respectable free emigrant, who arrived in the colony as a cabin-passenger by that vessel, assured me, "he did not believe they could be matched in England." The captain's authority was accordingly set at defiance by the crew, and the vessel converted into a scene of the most abandoned licentiousness during the whole voyage. The ship Layton, which had arrived some time previous, had been similarly circumstanced; and the consequence was, that although a considerable number of reputable females emigrated by both vessels, many were ruined for ever, from the vile society into which they were thus thrown. The Canton, which arrived rather more than a year after the David Scott, was at first reported to have brought out a much better cargo: it was ascertained, however, that within three days after the females by that vessel were landed in Sydney, forty of them were regularly domiciled in houses of bad repute in the colonial capital.

The change for the worse which the prevalence of this system during the last three years or thereby has produced in the town of Sydney, and in the morals of the colony generally,

Deducting, therefore, from the ten thousand free emigrants of all classes and ages, who have

is equally evident and deplorable. For the last two or three years the streets of Sydney have been absolutely infested, both by day and by night, with female emigrants of the vilest character, *whose passage-out has been paid for from the funds of the colony:* whereas, during the whole period of my previous residence of ten years in New South Wales I never observed any thing of that kind. The thoroughly demoralizing influence of such exhibitions on the youth of the colony may be easily conceived, for one bad woman let loose upon society does infinitely more harm than half a dozen bad men; but the total amount of licentiousness and profligacy, which had not assumed so grossly disgusting a form, but which was, nevertheless, notoriously practised, as notoriously occasioned and supported by this monstrous, this infamous system, to the ruin of the peace of many reputable families in the colony, is utterly incalculable. The single fact, that during the year 1833 there had only been *six* persons, who had arrived free in the colony, confined in the gaol of Sydney, and that the number of such persons who had been so confined during the first seven months of the year 1835 had amounted to *ninety*, is of itself a pretty evident indication of the thoroughly demoralizing tendency of the female emigration system; for a large proportion of these persons were free emigrant females, the first female emigrant ship from London having arrived in New South Wales towards the close of the year 1833.

I left the colony for England on the 4th of July of that year; but on ascertaining, on my return to it in the month of November 1834, the real character and tendency of the female emigration system, I did all in my power to expose it to the

arrived in New South Wales during the last eight years and a half, the worthless free emigrants of

public, in its proper light, through the colonial press. For this service I was honoured with a pamphlet by Mr. John Marshall, the agent of the Female Emigration Board in London, who was all the while accumulating a handsome fortune by thus destroying the hopes of the colony. I should not have mentioned this pamphlet, had it not contained three letters, which were adduced in apparent contradiction of certain statements I was represented to have made on the subject of female emigration, written respectively by Mr. Alderman Pirie, late Sheriff of London; Sir Edward Parry, late manager of the Australian Agricultural Company; and Archdeacon Broughton, now Bishop of New South Wales. Mr. Pirie's letter was adduced to contradict a statement contained in an anonymous letter in the Colonist newspaper, which Mr. Marshall thought proper to impute to me, *but of which I had not been the writer;* the letter in question having been written by Mr. Beilby, a respectable merchant in Sydney. In that letter it was stated by the writer, who had been superintendent of the ship Layton on her voyage out, that Mr. Pirie had expressed some suspicions of Mr. Marshall's procedure to himself in his own office in London, and Mr. P. was brought forward by Mr. M. to declare solemnly that he had never expressed himself in such a manner to me! I never said he had. The matters contained in the papers I had really written, on which Sir Edward Parry and Bishop Broughton were brought forward, though somewhat indirectly, to throw discredit, by representing them as improbable, were facts and circumstances relative to the female emigrant ships David Scott and Duchess of Northumberland; of which I had ascertained the truth from the first authority,—that of most respectable men connected with

all the three classes above mentioned,—whose demoralizing influence on colonial society has been evident to every observer, and alarmingly extensive,—I question whether there would remain as many as five thousand reputable persons of the whole number to exert an influence of an opposite tendency, and to counteract the additional moral poison diffused over the whole territory, during the period of their successive arrival, in the shape of twenty-eight thousand additional convicts fresh from the gaols of England.

It must therefore be evident, that the transportation system, as a system for the prevention of crime and the reformation of criminals, must have been totally different in its character and effects before the war of American independence, from what it has been ever since. Such a colony as a convict colony was never heard of in America; neither was there ever any such task imposed on any colony on that continent, in the way of controlling and reforming criminals, as the British government have recklessly imposed on the virtuous portion of the free emigrant popu-

these vessels in the port of Sydney. Both of these vessels, moreover, had arrived in the colony *more than a twelvemonth after Sir Edward Parry and Bishop Broughton had left it*, and the matters in question were consequently as little known to either of them, as they could have been to any man in England.

lation of New South Wales. I shall have occasion in the sequel to show that it was not the original intention of the founders of that colony that it should have been constituted in so unheard-of a manner; at present, therefore, I shall only point out a singular political result of the grand mistake which has thus been made in the organization and constitution of the Australian penal colonies. In the American colonies the liberated convict could only hope to repossess himself of the political rights and privileges of freemen, by causing his previous character and history to be entirely forgotten in his subsequent good conduct, and by thereby inducing the belief that he was really worthy to exercise them: but the liberated convict of New South Wales comes boldly forward to claim these rights and privileges,—besieging the British parliament with his memorials and petitions on the subject—on the ground, forsooth, of his having undergone the full amount of punishment denounced for certain crimes and misdemeanours, by the laws of his country: or, in other words, on the ground of his being an *emancipated convict*, he lays claim to the elective franchise, to constitute legislators for the people, and to the still more important office of juryman, to sit in judgment in matters concerning their liberty or their lives!

And why does the emancipated convict of New

South Wales plead for such privileges on this ground,—a ground which would have exposed him in every colony in America, during the continuance of transportation to that country, to utter derision? Why, just because society has been permitted by the British government to grow up to comparative maturity in the Australian colonies, without a sufficient infusion of virtuous freemen to give it a proper tone.

In fact, the very circumstance of a man's standing forward in any country to claim certain political privileges, on the ground of his being an *emancipated convict*, is a presumptive proof of his not being really reformed; for the really reformed character would naturally seek the shade and court obscurity. The extensive prevalence of such claims and feelings in any country is, moreover, a presumptive proof of the utter inefficacy of transportation to that country, under the system of management out of which such a state of things has arisen, as a means of preventing crime or of reforming criminals. Nay, the very existence of any community of recent British origin, and situated within the limits of the British empire, in which such feelings can be entertained, and such claims preferred, is a positive opprobrium to the British government for the last forty years.

As the colony of New South Wales, however,

is now happily delivered from that system of Tory neglect and mismanagement, under which it was suffered to grow up to comparative maturity,—like a noxious weed thrown over a garden wall and alighting accidentally on a dunghill,—and to which alone it owes its convict character, its convict feelings, its convict claims; I trust the same principle of thorough reform, which has already been so beneficially exemplified in other departments of the public service, will, ere long, be extended to that important dependency of the empire, in the way of providing an effectual remedy, in so far as such a remedy can yet be provided, for those great evils that have already resulted, and may yet result to it, from the mismanagement of the transportation system. But, as the nature of the remedy to be applied, in the case of any existing evil, can only be ascertained from a thorough knowledge of the nature and extent of that evil, I shall endeavour, in the course of the following chapters, to point out some of the causes that have hitherto operated most powerfully in occasioning the comparative failure of the transportation system, both as a means of preventing crime, and of reforming criminals, in the Australian colonies.

CHAPTER IV.

FIRST CAUSE OF THE COMPARATIVE FAILURE OF THE TRANSPORTATION SYSTEM IN THE AUSTRALIAN COLONIES,—THE WANT OF A SUFFICIENTLY NUMEROUS FREE EMIGRANT POPULATION.

1. The first, and without doubt the most influential cause of the comparative failure of the transportation system, as it has hitherto been administered in the Australian penal colonies, is the want of a free emigrant and virtuous population, to afford the requisite stimulus to reformation, and to repress the general tendency to criminality.

It has become fashionable of late for those writers in England who decry the whole system of transportation as essentially impolitic and inexpedient, to endeavour to enlist the authority of the celebrated Lord Bacon in support of their

position, by quoting the following well-known aphorism of that distinguished philosopher:—"It is a shameful and unblessed thing to take *the scum of the people, and wicked, condemned men*, to be the people with whom you plant." To attempt to form a community, either in whole or in great measure, of such materials, I agree with his Lordship, is disreputable to any government,—equally opposed to the maxims of sound policy and the principles of enlightened Christianity: and if any proof or illustration were wanting of the folly and madness of such an attempt, I would only appeal to the past history and the present condition of the Australian colonies. But I have yet to learn that Lord Bacon was of opinion that "wicked, condemned men" were in no case to be transported to a British colony, or that convict labour ought never to be had recourse to in a foreign plantation, either as a means of punishing and reforming the criminal, or of promoting the welfare and advancement of the settlement. If Lord Bacon had really advanced any such opinion, I would only have said, after appealing to that experience and observation which his Lordship so successfully established as the basis of his inductive philosophy, that he had himself been theorizing in this particular instance, and that "the greatest and wisest of mankind" was for

once mistaken. To carry out Lord Bacon's own metaphor, I would observe, that as the goodliest herbs and the most valuable fruit-trees, when first *planted* in the earth, have their roots covered or surrounded in the shape of manure with the filthiest and the most abominable of physical substances, so may a certain portion of the moral abominations of the empire, in the shape of "wicked, condemned men," be so disposed around the roots of that vigorous plant, a British colony, as to enable it to strike these roots the more quickly and the more deeply into the virgin soil.

It was not the object of the founders of the colony of New South Wales to form a community to consist exclusively of convict materials,—to accumulate a mere dunghill, so to speak, for the British empire. They had other and far higher objects in view. Their object was to employ the transported criminal, whom his mother country had vomited out of her political system, in preparing the way for a settlement of freemen at the ends of the earth; where, his spirit harassed with toil, ignominy, and privation, and deprived of all hope of ever returning to the scenes of his former crimes and temptations, he might be led to bethink himself of his past enormities, and to return to the paths of virtue,—encouraged by the good

example of the reputable portion of the new community into which he was thenceforth to be cast, and stimulated by the prospects which are uniformly held forth in new countries to industry and perseverance.

A virtuous free emigrant population, sufficiently numerous to form a *point d'appui* to the government, and to prove, in concert with that government, "a terror to evil-doers, and a praise to all such as should do well," was therefore an essential part of the political organization and constitution of the penal colonies of the empire: and if unforeseen and calamitous events, of overwhelming importance, had not entirely absorbed the energies of his majesty's ministers, and withdrawn their attention for a long period from the state and prospects of the penal colonies,—leaving the management of these important appendages of the empire to chance and incapacity,—the whole framework of their society would doubtless have been organized and constituted, from the first, on this rational model.

This will appear evident from the following extracts from certain despatches of Captain Phillip, the first governor of New South Wales, addressed to the Secretary of State for the Colonies, in the year 1790; in which it was taken for granted that the settlement of a considerable number of free

emigrants in that colony, to assist in controlling the convict population, in rendering their labour useful to the community, and in promoting their ultimate reformation, was a measure contemplated by the home government from the very first.

"Sydney Cove, 12th Feb., 1790.

"Here I beg leave to observe to your Lordship, that if settlers are sent out, and the convicts divided amongst them, this settlement will very shortly maintain itself; but *without which the country cannot be cultivated to advantage.* * * * The labour of the convicts, *employed in cultivation,* has been very short of what might have been expected."

"Sydney Cove, 13th Feb., 1790.

"As the land, for several miles to the southward and twenty miles to the westward of Rose Hill (now Parramatta), that is, to the banks of the Hawkesbury, is as fine land for tillage as most in England, some few spots excepted, I propose that tract for the settlers who may be sent out. As the labour of clearing the ground of timber will be great, I think each settler should not have less than twenty men on his farm, which I suppose to be from five hundred to one thousand acres. It will be necessary to give that number

of convicts to those settlers who come out, and to support them for two years from the public stores: in that time, if they are industrious, they will be in a situation to support themselves; and I do not think they would be able to do so in less time. At the expiration of two years, they may return half the convicts they have been allowed, and would want no farther assistance from government."

"Sydney Cove, 17th June, 1790.

"If settlers are sent out, *many difficulties will be removed;* they may choose the situations to which I cannot at this moment detach convicts: and I have had the honour of observing, in my former despatches, that *settlers appear to me to be absolutely necessary.*

"As I thought *the first settlers sent out might require more encouragement than those who might come hereafter,* I proposed, in my last despatches, giving them a certain number of convicts for two years, and supporting them during that time at the expense of the Crown. *Much will depend on ensuring the success of the first settlers sent out,* and who, I presume, will be good farmers: the assistance proposed for them will certainly put them at their ease, if they are industrious, and would not, I apprehend, be any great loss to the Crown.

"*I am desirous of securing the success of the first settlers.* * * * The river Hawkesbury will, I doubt not, offer some desirable situations, and the great advantages of a navigable river are obvious.

"In addition to the officers I shall be able to send to Norfolk Island, I presume that two or three magistrates will be necessary. *If settlers come out for that island, perhaps some amongst them may be found to answer the purpose.*"

"Sydney Cove, 17th July, 1790.

"The consequence of a failure of a crop, when we no longer depend upon any supplies from Great Britain, will be obvious; and *to guard against which is one reason for my being so desirous of having a few settlers,* to whom, as the first, I think every possible encouragement should be given. *In them I should have some resource, and amongst them proper people might be found to act in different capacities, at little or no expense to government; for as the number of convicts and others increase, civil magistrates, &c. will be necessary.*"

The following extract, however, from a letter addressed to Governor Phillip, by Mr. Secretary Dundas, previous to the date of any of the go-

vernor's despatches above-quoted, will evince the intentions of government in a still clearer light:—

"Downing Street, 10th Feb., 1790.

"Such settlers as have determined to go will embark in about six weeks with a master-miller and a carpenter. What the number of settlers may amount to, I cannot at present ascertain, but I think it will fall short of that stated in my last letter (No. 2) as having made proposals to government."

It appears from this extract, that previous to the date of the second letter, which was written by the Secretary of State to the first governor of New South Wales, and probably before any other intelligence had reached England respecting Captain Phillip than that of his arrival in Port Jackson, the government were taking steps for sending out a considerable detachment of free settlers to the colony: and means having been used at the same time to make known to the public the encouragement which the government would afford to those settlers of this description who should emigrate to the new colony, it appears, that so early as the year 1791, fifteen Quaker families had actually made proposals to government on the subject; from which, however, they were

afterwards unfortunately induced to recede, in consequence of the refusal of government to extend the laws of England to the settlement.

If these intentions of the founders of the colony of New South Wales had been followed up; if the reiterated recommendations of the first governor of that colony had been duly attended to, and the requisite means employed to induce agricultural and other emigrants of reputable character and industrious habits to emigrate to the new settlement; if, for instance, in addition to the encouragement proposed to be held out to such emigrants by Governor Phillip, a moderate salary had been guaranteed to any Protestant minister, of approved character and zeal, and of whatever communion, who should accompany each small detachment of emigrants proceeding to New South Wales, of not less than twenty families each, to dispense the ordinances of religion to these families, and to whatever convicts might be employed either in their service or in their vicinity,—the happiest results would doubtless have been realized. In particular, the settlement would have been able to supply itself with the necessaries of life at a much earlier period than it actually was; a state of things, which would have saved the government, in the way of outlay for imported grain, as much as it would have cost them to form

at least twenty parishes in different parts of the territory, having each a nucleus of from twenty to thirty free emigrant families. But the moral and political effects that would have resulted from the adoption of such a course are of incalculably greater importance than the mere diminution of expenditure, to which it would undoubtedly have led. It would have afforded the governor, agreeably to the reasonable anticipations of Captain Phillip, powerful and effectual support in the administration of penal discipline; supplying him with fit persons for situations of trust or authority. It would have established, from the very first, something like public opinion in the colony; which would very soon have gathered strength enough to put down injustice and oppression on the one hand, and outrageous immorality on the other. It would have placed the trading concerns of the colony, whether on the large or on the small scale, in the hands of reputable persons; and prevented that system of legalized chicanery, extortion, oppression, and robbery, into which they actually degenerated in the hands of liberated convicts, or of free persons deeply imbued with their dishonest principles, and living in willing conformity to their disreputable practice. It would have rendered it necessary for the ticket-of-leave holder, or emanci-

pated convict, to obtain his livelihood by honest industry, in clearing and cultivating land, or in the service or employment of reputable freemen, instead of living a life of idleness and luxurious indulgence, or preying like a horse-leech upon society, as a publican or general dealer. It would have given the requisite encouragement and protection to the really reformed emancipated convict, by confirming him, on the one hand, in his returning attachment to the pursuits and pleasures of honest industry, and by rescuing him, on the other, from the fangs of the publicans and dealers of his own class and order. It would have relieved several successive governors of the colony from the mortifying and humiliating necessity of purchasing the patronage of men who owed their own lives to the lenity of the laws, and of whose thorough reformation there was no evidence but their acquisition of wealth, in order to secure an adequate counterpoise to the weight and influence of a few individuals, whom they fancied opposed to their legitimate authority. It would have kept the convicts and emancipated convicts in their proper place in the social system, and saved the colony from the evil consequences that have already resulted from the growth and ascendancy of a class in colonial society, distinguished by the name of

emancipists, and actually glorying in the recollection of their having once been outcasts from society for their crimes.*

Had the intentions of the original founders of the colony of New South Wales been vigorously followed up, and had the reiterated recommendations of its first governor been duly attended to, so as to have enabled the first detach-

* As a proof of the correctness of these statements, and of the reality of the feeling I have represented as existing extensively in New South Wales, I would merely mention the following fact:—At an anniversary dinner, held by the emancipists of Sydney, in the year 1822 or 1823, to celebrate the founding of the colony, Mr. Edward Smith Hall, *a free emigrant*, and for a long time past the editor of a paper called the 'Monitor,' which for the last ten years has been pandering to the worst passions and feelings of the convict and emancipated convict classes of the population, and doing an infinity of harm to the colony, actually expressed his "sincere regret that he was not an emancipist himself," or, in other words, that he had not arrived in the colony as a convict. If Mr. Hall had been a person of disreputable conduct, the circumstance would not have been so remarkable: but as he has all along maintained a reputable character, it only serves to demonstrate the pernicious results that may be anticipated from attempting to form a colony exclusively of "wicked, condemned men." There were very few free emigrants in New South Wales when Mr. Hall expressed himself in the manner above-mentioned: it would be somewhat difficult to find a respectable individual of that class who would venture to do so now.

ments of free emigrants to have taken root in the colony; there is no doubt whatever but that numerous and reputable families and individuals, of all classes in society, would have soon found their way to the new settlement; and that government would consequently have found it practicable, at a comparatively early period in its history, to have entirely withheld the positive and pecuniary encouragement which it was so highly expedient to have afforded to free emigrants at its formation. Unfortunately for the colony, however, as well as for the establishment of those great principles of criminal jurisprudence that were so deeply involved in its success, the intentions of its founders were entirely lost sight of, and the recommendations of its first governor totally neglected, during that long period of national alarm, of preparation for foreign war, and of actual hostility, that ensued upon the outbreaking of the French revolution; for, although a few straggling emigrants arrived and settled in the colony during the administration of Governor Hunter, and a few more during that of Governor King, their number was so small, and their weight and influence on society so insignificant, that, as I have already observed, during the first thirty-three years of its existence, or until the close of the year 1820, the colony of New South Wales may be considered as

having been formed exclusively "of the scum of the people," and "of wicked, condemned men;"—a mode of planting colonies, which Lord Bacon rightly designates as "a shameful and unblessed thing."

The very different results that must inevitably follow from the two systems of penal colonization we have been describing,—viz., that of leaving the outpourings of a thousand gaols to ferment into a body politic of its own accord, and that of employing them, so to speak, in the way of manure, to enable the colonial plant to strike its roots more vigorously into the virgin soil,—are evident, in some measure, in the comparative condition of the prison population, and of society in general, in the two penal colonies of New South Wales and Van Dieman's Land. The latter of these colonies was settled at a much later period than the former; and, at a comparatively early period in its history as a penal settlement, it became the resort of a large number of respectable free emigrants from Great Britain and Ireland, who, with their families and free servants, settled all over the island. Society in that settlement was thus differently organized and constituted from the very first, as compared with its organization and constitution in New South Wales: penal discipline was consequently much better administered than in the older colony, as it

was more obviously the interest of the influential inhabitants of Van Dieman's Land to enforce the government regulations on that subject: the convicts were therefore taught very early to know their proper place in society, and effectually precluded by the voice of public opinion from presuming upon that of others; insomuch, that although the emancipated convict in Van Dieman's Land has all along occupied exactly the same position in regard to rights and privileges as in New South Wales, the name of emancipist has never been heard of as a political watchword, or as the designation of a party in that island. This superior state of things in Van Dieman's Land has doubtless resulted, in no small degree, from the highly judicious arrangements established by Colonel Arthur, the late lieutenant-governor of that island, for the discipline and management of its prison population; from the zeal and abilities of the principal officers he employed in the work of superintendence; and from the long period of twelve years, during which he was honoured to hold the government of Van Dieman's Land, and which, occurring in the most important period of the history of that island as a British colony, enabled him to mature his plans for the superintendence and management of the convicts, to give them a fair trial, and to bring them to a state of

comparative perfection: but all these concurrent circumstances would have been utterly ineffectual in bringing about the present comparatively superior state of things in that island, had its colonial executive not enjoyed, in the enforcement of a well-regulated system of penal discipline, the advantage of a *point d'appui*, which was utterly unknown to the governors of New South Wales for the first thirty years of the existence of that colony, in the form of a comparatively numerous and virtuous free emigrant population.

From the entire want of such a population in New South Wales, the tone was originally given to society in that colony by convicts and emancipated convicts; who, being uncontrolled by the voice of public opinion, and having no stimulus from without to induce them to pursue a more reputable course, speedily presented one grand scene of enormous profligacy; in which, indeed, the very officers of government, so far from interposing in the way of prevention or counteraction, for the most part took the lead, and set them the example. In such a state of things, the reformation of the convict population was utterly hopeless; insomuch that, in process of time, the very word *reformation* had almost entirely lost its English meaning in New South Wales; the reformed emancipated convict of the era of Governor

Macquarie being not the man who evinced a change of heart and character by a change of habits and practice, but the man who had succeeded in acquiring wealth, by any means however unworthy, and who, perhaps, notoriously expended that wealth in the grossest licentiousness.

Governors, it is well known, being generally military officers, are a class of men who are usually extremely jealous of their delegated authority, as the representatives of majesty ; and this jealousy is, for the most part, in exact proportion to their distance from the mother country, and the comparative minuteness or insignificance of their governments. Having situations of emolument and other substantial favours at their disposal, it is impossible in the nature of things, but that their exercise of their own discretion, in appointing to such situations or in distributing such favours, should give offence in some quarter or other. Thus, if Mr. A. has had a useful convict mechanic assigned to him, while Mr. B. has only had a common Irish labourer ; or if Mr. C. has had a young bull and a few heifers lent him from the government herd, while Mr. D. is told that there are none for him, or that he must wait till the following season,—hasty and inconsiderate expressions, either of disappointment or of anger, are apt to be uttered by the said Mr. B. or

Mr. D. Now, instead of conciliating and disarming such individuals, the approved method in the Australian colonies has generally been to catch at such expressions with the utmost avidity, and to interpret them, forsooth, as signs of disaffection to the constituted authorities, to withhold from the obnoxious individual all indulgences for the future, and thus to enable him to join with other individuals in similar circumstances in organizing a regular faction *in petto*. In managing and controlling such factions, however, the governor must have a *point d'appui*, or some influential portion of the community to look to for countenance and support; but as there was no free emigrant population in New South Wales to supply this desideratum, the earlier Governors had to form one for their own interest and convenience out of the class of emancipated convicts; elevating individuals of that class to situations of influence and authority, and loading them with favours and benefactions. By this means the emancipated convicts were at length encouraged and enabled, by the Government of New South Wales, not merely to step forward from that state of comparative obscurity to which they had been tacitly consigned, as well by their own right feelings as by the general consent of society, in Van Dieman's Land; but to constitute themselves a separate

class in the community; able, eventually, by means of their wealth, their numbers, and the incessant clamours of their leaders, to control or overawe the Government itself.

In such a state of things—a state in which the standard of morals was authoritatively lowered, and a false estimate of men and manners publicly established, and in which, moreover, every thing was done that could be done virtually to divest the prison population of all sense of degradation and criminality — it is superfluous to inquire whether transportation had proved effectual, either for the prevention of crime or for the reformation of criminals.

It is extremely gratifying, however, to be able to state, that arrangements are now in progress in the colony of New South Wales, which will counteract, in great measure, the moral and political evils of its original constitution, and effect, in some degree at least, its moral and political regeneration. By a new arrangement for the disposal of crown land, introduced by order of the Right Honourable the Secretary of State for the Colonies, in the year 1831, a revenue has been unexpectedly created in New South Wales, which, if judiciously applied towards the purposes of its original destination, will enable the colonial government to introduce into the colony indus-

trious and virtuous free emigrants from the mother country, at the rate of three thousand families and upwards every year: and as the rapid extension and advancement of the colony will afford ample means of settling these families in its ample territory, so will their moral and religious influence on the general population be rendered beneficial in the highest degree by another arrangement of a most important bearing, for which the colonists are indebted, in great measure, to the enlightened liberality of the present governor, Major-General Sir Richard Bourke. In virtue of that arrangement, every small community, in whatever part of the colonial territory, will henceforth be enabled to secure the services of an efficient schoolmaster, as well as of a resident minister of religion of their own communion. The combined influence of these arrangements—the annual introduction and progressive settlement of large bodies of free emigrants, for whose intellectual and spiritual welfare effectual provision is thus prospectively made by the colonial legislature—will doubtless eventually change the whole aspect and character of the colony of New South Wales; gradually undoing the past evil effects of the transportation system, and rendering transportation powerfully efficient for the future, both for the prevention of crime and for the reformation of criminals.

CHAPTER V.

THE SECOND CAUSE OF THE COMPARATIVE FAILURE OF THE TRANSPORTATION SYSTEM, —THE UNLIMITED IMPORTATION AND CONSUMPTION OF ARDENT SPIRITS IN THE AUSTRALIAN COLONIES.

One of the most fruitful sources of the comparative failure of the transportation system, as it has been administered in the Australian penal colonies during the last thirty years, has doubtless been the unlimited importation and consumption of ardent spirits in these colonies. The want of a virtuous free emigrant population, to afford the requisite stimulus to reformation on the one hand, and the requisite check to criminality on the other, may be considered as a *negative* cause or source of failure; but the extent to which the importation and consumption of ardent spirits have all along been permitted in the Australian colonies may be regarded as a *positive* source of moral debasement, operating

still more directly in producing the same evil effect. One should have thought that the rigorous prohibition of the importation of ardent spirits, in countries which for a long period could only be considered extensive gaols, would have suggested itself as a measure of expediency, if not of absolute necessity, to those who were concerned either in founding the penal settlements of the empire, or in the subsequent administration of their government: * for as drunkenness is the great source of crime in the mother country, and the sole procuring cause of transportation in the case of a large portion of the prison population of these settlements, the absolute prohibition of the importation of ardent spirits into the colonial territories was evidently not less necessary for the prevention of crime in the mother country, than for the reformation of the transported criminals. It is lamentable to reflect, however, on the manner in which the praiseworthy and benevolent intentions of the founders of the penal colonies of the empire were virtually counteracted and completely

* "One of the Acts passed in the year 1734, for the settlement of Georgia, was to prevent the importation and use of rum and brandy in the province, or of any kind of spirits or strong waters whatever."—Parliamentary Evidence on Drunkenness, No. 939. Why was there no such act passed for New South Wales?

frustrated through the culpable neglect of this indispensably necessary and highly salutary measure, on the part of the colonial authorities of New South Wales and Van Dieman's Land, acting, however, under the sanction of the Home Government. For, besides the regular and ample ration of ardent spirits that was served out to all free persons in the service of government, whether civil or military, from the highest in command to the humblest menial, there were regular and periodical issues of large quantities of ardent spirits, free of duty, to government-officers of all ranks, from the first settlement of the colony; and as numerous convicts were from time to time acquiring their freedom, while a system of concubinage with female convicts was extensively and indeed almost universally practised by the free population, there was no want of fit persons to dispose of the officers' rum, and to hold out the requisite inducement to all convicts still in bondage to rob and steal, to procure the means of indulgence. It had thus virtually become the interest of the free portion of the population of New South Wales, from the first establishment of that colony, to frustrate the grand object of its wise and beneficent founders, in regard to the reformation of the convicts, and to do all that in them lay to render the latter worse than ever; the Government

in the mean time supplying the means of their general demoralization with a liberality and profuseness above all praise. For until so late a period as the 18th of August, 1816, when the demoralizing practice was discontinued by order of Earl Bathurst, ardent spirits were held by the colonial government as the circulating medium or current coin of the colony; they were given in payment for work of every description performed for Government, and issued out in certain fixed quantities to civil and military officers, overseers, clerks, and constables, by way of remuneration, as it was termed, for imaginary services. And so effectual had this preposterous system proved in defeating the great ends of the establishment of the colony, in the course of the first twenty years after its original settlement, that shortly after the commencement of the present century, the colony had become one grand scene of brutal dissipation and licentiousness, of lawless violence and rapine. The following is the testimony of a competent and unprejudiced witness, who arrived in the colony about the year 1802, as to the scenes that were then generally exhibited in New South Wales among the emancipated convict settlers and their convict servants :—

" Eighteen years ago, the period when I arrived in this colony, it was lamentable to behold the

excess to which drunkenness was carried: it was no uncommon occurrence for men to sit down round a bucket of spirits, and drink it with quart pots, until they were unable to stir from the spot; and frequently did the settler involve himself so deeply in debt by drunkenness, that it terminated in his ruin."—Dr. Redfern, in reply to Governor Macquarie's Queries. January 1820. Parliamentary Paper.

During the protracted administration of Governor Macquarie, who succeeded to the government of New South Wales in the year 1810, the measures adopted by authority, for the welfare and advancement of the colony, had unfortunately a direct tendency to strengthen the general propensity of the lower classes of the colonists to the excessive use of intoxicating liquors, and to afford additional means of indulgence to all classes of its anomalous population. By an injudicious and unwarrantable extension of the system of granting free pardons, conditional pardons, and tickets of leave, or exemption from government labour, numerous convicts were from time to time thrown loose upon the colony before they had acquired industrious habits, or were at all capable of conducting themselves with propriety: for although the governor uniformly gave small grants of land in the interior to newly-emancipated convicts, to encourage the

formation of a class of agriculturists throughout the territory, these grants were generally transferred to the wholesale or retail dealers in ardent spirits, as soon as the governor's order to take possession of the land was obtained. In the mean time, the large expenditure of British money by Governor Macquarie, in the erection of buildings of inferior importance in the colonial towns, necessarily congregated large bodies of the convict and emancipist population in these towns; and by affording high wages to free labourers of all classes, held out the requisite encouragement for the establishment of numerous public-houses, both licensed and unlicensed; most of which were mere receptacles for stolen goods, while all of them were sources of irresistible temptation and ultimate ruin to such emancipated convict settlers as had acquired property by their own industry in the interior. Nay, for four years during the administration of Governor Macquarie, three individuals in Sydney had an authorized monopoly of all the ardent spirits that were imported into the colony, on condition of their erecting a public hospital in the town of Sydney; and during the continuance of this monopoly, every means was used to increase the number of houses for the sale of ardent spirits, both in Sydney and all over the colony, to augment the

consumption of intoxicating liquors, already of enormous amount, as compared with the population, and thereby to spread a moral pestilence as widely as possible over the whole community.*

The foundations of society in the colony of New South Wales being thus laid in so preposterous a manner, it will not appear unaccountable, that the consumption of ardent spirits, and the practice of all those lesser vices, and the prevalence of all those greater crimes and misdemeanours, that must necessarily ensue from excess in the use of such stimulants in a convict colony, should have been steadily advancing during the successive administrations of Sir Thomas Brisbane, Sir Ralph Darling, and Sir Richard Bourke; insomuch that, if I may be

* In the year 1810, the first year of Governor Macquarie's administration, the number of licensed public-houses in the colony was thirty-one,—a number which one should imagine would have been sufficient for a population of ten thousand souls. The contract for the Rum Hospital, as it was called, was entered into during the following year, and the number of licensed houses during the four years of its continuance was as follows; viz.

In	1811	104
	1812	117
	1813	93
	1814	110

allowed the expression, the whole body politic of the colony has at length become completely saturated with intoxicating liquors, and the entire mass of its humours completely corrupted.

The present consumption of ardent spirits in New South Wales, and the progressive increase of consumption during the last ten years, will appear from the following "Return of the Quantity of Spirits on which duty has been paid in the colony during that period, with the amount of the duty."

Year.	Gallons.	Duty.		
		£.	s.	d.
1826	149,902½	43,655	12	11
1827	139,085	41,555	0	10
1828	168,328	52,671	18	9
1829	186,114¼	61,592	17	8
1830	202,773¾	67,498	18	8
1831	223,900	74,634	11	10
1832	247,295	82,627	16	7
1833	287,782	95,535	4	9
1834	273,841½	107,955	9	1
1835	291,138	117,161	8	11

The population of the colony at the close of Sir Thomas Brisbane's administration, in October, 1825, was 36,336; and at the end of the year 1835 it was in all likelihood not less than 80,000,

allowing for births and the increase from immigration and the importation of convicts, since the census of 1833. It follows, therefore, that the consumption of ardent spirits in New South Wales amounts at present to $3\frac{5}{8}$ imperial gallons annually for every man, woman, and child in the colony; the entire consumption for the united kingdom being one gallon and a small fraction for each individual. Allowing, however, for convicts in actual bondage, to whom spirits are not issued, and for children and other natives of the colony, *who are generally indisposed to the use of ardent spirits*, the number of the actual consumers of this vast quantity of intoxicating liquor does not, in all probability, exceed 40,000 persons; each of whom must consequently consume at the enormous rate of upwards of seven gallons a year! If, therefore, the increase of crime in the united kingdom is imputed in no small degree to the increased consumption of ardent spirits, what result can reasonably be expected from the transportation system, either in the way of preventing crime or of reforming criminals, in a colony in which the consumption is so enormously higher than in Great Britain and Ireland ?

During the period of his actual bondage, the convict is understood not to be allowed ardent spirits ; but in the service of private settlers he

has occasionally ways and means of procuring the unhallowed indulgence, independently of his master. Emancipated convicts are scattered all over the territory, and too frequently obtain their livelihood, not by honest industry, but by corrupting the convict and emancipated convict population,—selling ardent spirits *on the sly*, as it is called, and receiving in exchange property or goods that are generally pilfered or stolen from their owners for the express purpose of procuring the means of indulgence. But if a settler is so vigilant on the one hand, or so fortunately situated on the other, as to render it impracticable for his convict servants to obtain the means of intoxication during their period of bondage; or if, *as is often the case*, they conduct themselves with propriety during that period, in expectation of their more speedy liberation; they receive *tickets of leave*, or permission to employ themselves within a certain district for their own advantage, after a period of servitude in proportion to the term of their original sentence, provided they have committed no crimes or misdemeanours in the colony: and it often unfortunately happens, that convicts who have conducted themselves with great propriety as assigned servants—behaving themselves during the whole period of

their bondage soberly, honestly, and industriously, and so as to induce the conviction, that if placed in happier circumstances and beyond the reach of ardent spirits, they would approve themselves thoroughly reformed — no sooner become their own masters and acquire the command of money (which they are soon able to do, from the high price of labour in the colony), than they revert all at once to habits of drunkenness and dissipation. As the ticket of leave, however, is subject to be cancelled at any time for drunkenness or other disorderly conduct, society has still some hold on the ticket-of-leave holder till the expiration of his original sentence of seven or fourteen years' transportation : but when at length he obtains his certificate of freedom, and can practise irregularities of this kind with impunity, he generally gives the rein to the evil propensities of his nature, and yields himself an easy prey to the powerful influence of temptation—employing himself from time to time in honest labour only till he has acquired the means of repeating his brutalizing debauch. I have known of instances, in which emancipated convicts, who had conducted themselves with the utmost propriety as assigned servants, have spent sums of £10, £20, £30, £50, £70, and even £100 in this way *at one sitting*—planting them-

selves in some low public-house along with other characters of a similar description, and drinking for weeks together till their last shilling was gone!

In a country in which so preposterous a system has been suffered to grow up, to extend, and to perpetuate itself, *under the fostering hand of authority*, it would be absolute mockery to ask whether transportation had proved effectual either for the prevention of crime or for the reformation of criminals. At all events, whatever may be its effect in England, it is unquestionable that, under the prevalence of that system, crime *has increased* and *is increasing* in New South Wales. This will appear evident from the following "Return of Convictions for Felonies and Misdemeanours in the Supreme Court, and in the Courts of Quarter Sessions," of that colony, during the following years: viz.

Years.	Convictions.
1831	361
1832	425
1833	565
1834	685
1835	771

In short, as drunkenness is the parent of crime, it must be self-evident, that a colony, in which the consumption of ardent spirits is so enormous as it

now is in New South Wales, and the temptations to that species of indulgence so numerous, can no longer be a fit place for transported criminals *under the system of management hitherto pursued in that colony.*

CHAPTER VI.

THIRD CAUSE OF THE COMPARATIVE FAILURE OF THE TRANSPORTATION SYSTEM,—THE GRADUAL RELAXATION OF PENAL DISCIPLINE.

The gradual relaxation of penal discipline, and the absolute want of every thing like a regular system of reform, may be regarded as the third cause of the comparative failure of the transportation system in the Australian colonies.

For some time after the original establishment of the colony of New South Wales, the situation of a convict in that colony, whether in the service of government or in that of private individuals, was one of real hardship and privation: subsequently, however, when provisions became plentiful, and when many of the settlers, to whom convicts were assigned as farm-servants, began to acquire wealth, the situation of a convict gradually

became much more tolerable. In the year 1810, Major-General Macquarie succeeded to the government of the colony; and having adopted the principle that all recollection of a convict's history and doings in England should be obliterated in New South Wales, and that his situation as a convict in that settlement should be ascribed rather to misfortune than to misconduct, the idea of classifying the convicts according to their previous criminality was thenceforth entirely out of the question. To those employed in government labour, unrestrained intercourse was allowed with one another, and generally also with the free population; while no attempt was made to try the experiment of solitary labour or solitary confinement, either by night or by day. Nay, a pernicious system of rewards and indulgences was established by authority, in virtue of which a convict of any ability could devote a large proportion, both of his time and labour, to his own personal benefit; and the direct tendency of which was to obliterate from his mind all sense of criminality. On the other hand, as it was not the interest of the private settler, to whom convict labourers were assigned, to subject them to any degree of restraint or punishment beyond what his own pecuniary interests or personal convenience might dictate, misdemeanours, which

under a proper system of penal discipline would have been visited with speedy and condign punishment, were generally overlooked, and a variety of indulgences afforded, utterly inconsistent with a state of penal discipline.

This has been especially the case all along, with convicts assigned either as domestic servants, or in any capacity whatever in the colonial towns. To consider transportation as a punishment, in the case of a large majority of such convicts, is pre-eminently absurd. Those of them that are employed as domestic servants have generally much lighter labour to perform, and much better fare, than free servants in the mother country; and after a few years' service, they obtain tickets of leave, or certificates of freedom; when they begin the world for themselves with prospects of success in business, or with means of dissipation, utterly beyond the reach of the industrious classes in England. Those, on the other hand, who are employed as clerks or shopmen, have probably a much better situation, and more money to spend in profligate courses, than they ever had at home; a state of things which naturally induces intolerable impudence and assumption. In the case of convicts assigned to settlers in the country, their condition depends in great measure on the character of the master, and in particular in-

stances, they are subject to enormous tyranny; many masters being utterly unfit to be entrusted with convict servants. But in proportion as the convicts have been dispersed over a wide extent of territory, and large numbers accumulated on particular estates, and assignments made to persons of questionable character, there has been a general and progressive relaxation of penal discipline towards the convicts in the service of settlers. Indeed, it must be acknowledged, that so long as convicts are disposed of in this manner, nothing like uniformity in the mode of treatment can possibly be enforced, while rewards and punishments will necessarily be meted out with comparatively little regard to the claims of justice or to individual desert. So unequal, indeed, is the system at present in operation, that transportation, like a lottery-ticket, may prove to the individual who draws it, and with equally little desert on his part, either a prize or a blank.

As to any direct means of attempting the reformation of criminals, it is no want of charity to assert, that they have scarcely ever been had recourse to in any form under the colonial system of New South Wales. Even religious instruction, that most powerful means of reformation, was for a long period either withheld from the convicts altogether, or subjected to some counteracting

and polluting influence, which served either entirely to neutralize its efficacy, or to convert it into a system of downright mockery and insult. The great majority of the convicts, on the one hand, being scattered all over the territory, were beyond the reach of pastoral instruction and pastoral visitation; and the clergy of the territory, on the other, who were always stationed in the immediate vicinity of those more concentrated masses of population, that were formed under Governor Macquarie's management, were generally created justices of the peace; the consequence of which was, that the same functionary, who on Saturday had been seated on the magisterial bench, and employed chiefly in sentencing to hard labour on the roads, double irons, and a hundred lashes, was on Sunday transformed into a minister of the gospel of peace, a messenger of mercy, and a herald of salvation! Nay, so blind have the authorities in New South Wales uniformly been, till very recently, to the absolute necessity of encouraging religious instruction, from whatever quarter it might be offered or procured, that during the whole course of General Darling's government, attempts were seriously and successfully made to prevent the arrow of conviction from ever reaching the heart of a convict, un-

less it had been duly shot from an episcopalian bow.

The manner in which penal discipline has hitherto been administered in New South Wales has depended in great measure on the dispositions and views of each successive governor; being either mild and lenient, or rigorous and severe, according to the constitutional temperament of each representative of majesty. To talk of a *system* of penal discipline under such circumstances is manifestly preposterous; to expect success from such a *chance-medley* would evidently be absurd. As compared with his predecessor, General Darling, the present governor is undoubtedly of a mild and lenient disposition towards the convicts. In the exercise of this disposition, he deemed it expedient, shortly after his arrival in the colony, to curtail the power of the colonial magistrates in inflicting summary punishments, in the case of convicts charged with minor offences, by causing an Act of Council to be passed, limiting the magistrates to the infliction of fifty lashes in each case of ascertained delinquency. This naturally gave offence to the adherents of General Darling's policy,—the colonial tories;—and a mighty outcry was accordingly raised against the whig governor for so unheard-

of and intolerable an innovation; insomuch, that individuals who had accumulated hundreds and even thousands a year through the labour of their convict servants, without having ever deemed it necessary to expend a single farthing for their spiritual welfare, have had the modest assurance to ascribe the accumulated moral evils that have resulted from the original constitution of the colony, and from the manner in which it had been suffered to grow up to comparative maturity during a period of forty years and upwards of tory neglect and mismanagement, *to the relaxed system of penal discipline recently introduced by Sir Richard Bourke!*

For my own part, conceiving that under a proper system of penal discipline the brutalizing punishment of flogging might in great measure be dispensed with, and that the Governor was therefore in the right in limiting the colonial magistrates to fifty lashes, I cannot but regard the increase of crime, which these gentlemen deplore in their petitions to parliament, and of which I am sorry to say there can be no question, as an evidence of the utter impracticability of carrying on the government of New South Wales, under the system of management hitherto pursued in regard to the convicts, any longer, and of the absolute necessity of an immediate and funda-

mental change of system. The relaxation of penal discipline, which the real friends of the colony have to complain of and to deplore, has been of FORTY, and not *merely* of four years' continuance; and it must be evident to every candid person, whether in New South Wales or in England, that in proportion as the colony increases in wealth and population, and especially in convict population, the effects of that relaxation must only become more evident and more intolerable. But Sir Richard Bourke is a whig, and the late governor was a tory; and as the whigs have abolished the tory practice of paying for sound political principle in eligible grants of land, in the assignment of valuable convict servants, and in other indulgences in the Australian colonies; it is natural for those who find themselves reduced by these reforming measures to the level of other men, to be much more sensitive to crime on the part of their convict servants, and to political delinquency on the part of their rulers, than they ever were before.

CHAPTER VII.

FOURTH CAUSE OF THE COMPARATIVE FAILURE OF THE TRANSPORTATION SYSTEM,—THE FACILITIES FOR ACQUIRING WEALTH AND INFLUENCE ENJOYED BY EMANCIPATED CONVICTS IN THE AUSTRALIAN COLONIES.

THE extraordinary facilities for acquiring property, which emancipated convicts have hitherto enjoyed in New South Wales and Van Dieman's Land, may be regarded as a fourth cause of the comparative failure of the transportation system. The ticket of leave holder, or emancipist, generally commences his career as a colonial freeman in one or other of the three following ways: viz.

1. By retailing small wares in the Sydney market, or as a petty dealer in one or other of the

towns of the colony; rising gradually to the rank of a wholesale dealer or merchant, a proprietor of Bank shares, and an owner of valuable property in land, cattle, houses, and ships.

2. By retailing ardent spirits as a licensed publican;—a course which, although, in consequence of increased competition, it no longer presents such a highway to fortune as it once did in New South Wales, is still sufficiently alluring to attract numerous candidates for the patronage of colonial drunkards, and to afford various ways and means of amassing wealth much more rapidly than can generally be done by honest industry.

3. By retiring with a few sheep and cattle to the interior; where, from the natural increase of these descriptions of stock, especially if assisted by occasional additions in the way of sheep and cattle stealing, or by the purchase of stolen sheep and cattle, numerous flocks and herds are often acquired by ticket of leave men and emancipated convicts, and a large property realized in the course of a few years. There are doubtless instances of persons of the class of emancipists rising into the possession of wealth and consideration in society, by commencing as small settlers, or as mechanics, through sheer industry and perseverance; but these instances are not numerous, in comparison with those in which

wealth has been amassed by persons of this description by other and less laborious, though more questionable means.

The acquisition of large fortunes by such persons and by such means, has, doubtless, had a powerful and direct influence in frustrating one of the great ends of transportation—the prevention of crime in the mother country—by holding out the colony as the paradise of criminals to the whole class in England; it being consistent with the nature of man to look only to the prizes in the grand lottery of crime, and to disregard the blanks. It has had an equally pernicious influence, however, on the whole class of transported felons; the acquisition of wealth by individuals of that class being so much more frequently the result of successful criminality, or of those practices of extortion and chicanery that are nearly akin to it, than of honest industry and steady perseverance. Besides, it has established an *esprit de corps* among the whole class of emancipated convicts—a spirit fostered by ill-gotten wealth, and maintained and supported by yearly increasing numbers—which has manifested itself in a degree of arrogance and presumption, sufficient, on the one hand, to demonstrate that wealth in the hands of such individuals is no evidence of a thorough reformation; and directly calculated, on the other, to obliterate from

the minds of convicts in the colony all sense of criminality.

These pernicious effects of the system of convict discipline, so long prevalent in New South Wales, have undoubtedly been greatly aggravated by the injudicious and unwarrantable procedure of Governor Macquarie, in virtually forcing individuals of the class of emancipated convicts into society, and in placing them in situations of authority, of influence, and of emolument, to which they had no just claim.

CHAPTER VIII.

FIFTH CAUSE OF THE COMPARATIVE FAILURE OF THE TRANSPORTATION SYSTEM IN THE AUSTRALIAN COLONIES,—THE TRANSPORTATION OF EDUCATED CONVICTS.

The fifth cause of the comparative failure of the transportation system, as it has hitherto been administered, is the enormous evil that has resulted from the transportation of educated or gentlemen convicts to the penal colonies, and the frequent and ample opportunities which individuals of this class have hitherto enjoyed in these colonies, of not merely defeating the intentions of the law in their own particular case, by converting a state of intended punishment and degradation into one of extensive influence and positive enjoyment; but of also counteracting the natural tendency and operation of the punishment of transportation in a

large proportion of the convicts of inferior grade. I say *enormous evil;* for the mischief that has arisen from this source, in the settlement of New South Wales especially, has been of incredible amount. It was repeatedly stated in evidence before the Committee of the House of Commons on secondary punishments, in the years 1831 and 1832, that the disposal of convicts of the higher or educated classes of society had always proved a subject of difficulty and embarrassment to the colonial government. They have hitherto been generally employed as clerks in government-offices; as clerks and book-keepers in the employment of lawyers, merchants, and petty dealers; as tutors in the families of respectable colonists, *to train up the youth of the colony to useful knowledge, to virtue, and religion!* or as editors or sub-editors of colonial newspapers, — dictating, forsooth, to "all and sundry," *how convicts ought to be treated;* passing censures or encomiums *ex cathedra* on governors, judges, and magistrates,—and ever and anon animating the convict and emancipist classes generally, with the most hostile feelings towards the free emigrant population! Of the prodigious evil which individuals acting in these capacities have at all times done to the colony of New South Wales, I shall enumerate three instances from three different periods of its history.

Early in the present century, Richard Atkins, Esquire, a gentleman who had not previously received a legal education, and who was consequently very ignorant in matters of law, was appointed Judge-Advocate, or principal law-officer, of the settlement. Conscious of his own deficiencies, he solicited and obtained Governor Bligh's permission to consult, in all difficult cases of law, a convict-attorney, of the name of Crossley, who had been convicted of perjury in London, and had been afterwards pilloried and transported; and the services of this individual having been especially rendered, in drawing up an indictment against a respectable inhabitant of the colony, who had previously been an officer of the New South Wales corps, for alleged resistance to the governor's authority, and contempt of the government regulations; the officers of that corps violently arrested the governor, and usurped the government of the colony,—pleading, as their principal excuse, the employment of Crossley as a confidential law-adviser of the government, in matters affecting the property and lives of respectable individuals. This insurrection proved a source of incalculable evil to New South Wales, and subjected the British government to enormous expense.

During the government of Major-General Macquarie, another convict attorney, of the name of

E—, who had been transported from Dublin, arrived in the colony, and was assigned as a convict servant to the Rev. Mr. ——, of ——, one of the colonial episcopal chaplains of New South Wales, who employed him as a tutor for his sons. Of the nature of the instructions which the convict tutor communicated to his pupils, I am unable to speak particularly; but it is at least certain, that at the last criminal assizes held in the colony, one of them was found guilty of cattle-stealing, and is now a convict for life in Van Dieman's Land—thereby involving a highly respectable family in the deepest distress, and bringing down the gray hairs of his father with sorrow to the grave! E— has been in England for the last twelve or fourteen years, having left his wife and children in New South Wales; and his eldest son is at present living in a state of concubinage in the town of Sydney, with the daughter of a deceased clergyman in England, who emigrated by one of Mr. John Marshall's female emigrant ships. E— had of course obtained a pardon from Governor Macquarie shortly after his arrival in the colony, in accordance with the very liberal system adopted by that governor in bestowing such indulgences; and he had subsequently entered into a mercantile partnership with a half-caste emancipated convict from Calcutta, who had also obtained a ticket of

leave, or conditional pardon, on his arrival in the colony. Finding, however, that the tea and other China goods, which his house was in the habit of importing from Bengal, were undersold in the Sydney market by a highly respectable American merchant in Sydney, who had a correspondent in Canton, with whom he maintained a direct mercantile intercourse; E—, determined, if possible, to exclude the American from the colonial market, instituted an action against him, in the supreme court of the colony, on an obsolete and most impolitic statute of Charles II., prohibiting foreigners from trading in British colonies, and confiscating their goods. By a legal manœuvre, however, which was perhaps justifiable under the peculiar circumstances of the case, the American applied to the court for time to produce a duly attested certificate of E—'s conviction as a felon; which, in virtue of a much more recent parliamentary enactment, he professed his determination to plead as a bar to his instituting any action of the kind; and this application being granted by the court, the prosecution was dropped as a matter of course. That an individual, however, who had been himself but very recently restored to the rights and privileges of a British subject—solely through the extreme indulgence of a British governor, dispensing with the just enactments of the

criminal law in his particular case—should have had the presumption to attempt to ruin a reputable merchant, merely because the business of that merchant interfered with his own mercantile speculations, thereby embroiling the whole colony, as was actually the fact,—is another instance of the mischievous and dangerous influence which educated convicts have so frequently acquired in the penal colonies, and of the bad purposes for which that influence has almost uniformly been employed.

The third and last instance I shall adduce of the bad effects that have resulted from the transportation of educated convicts to New South Wales, is one of a much more aggravated character, and, I am sorry to add, of much more recent occurrence. William Angus Watt, a Scotchman from the neighbourhood of Forfar, who had been employed for some time as a clerk in the office of a respectable lawyer in Edinburgh about ten years ago, was at length detected embezzling a considerable sum of money belonging to his employer; but, escaping from justice, was outlawed by the High Court of Justiciary in Scotland in the year 1827. He had in the mean time found his way to London, where he soon obtained respectable employment as a clerk or book-keeper in the extensive haberdashery house of Messrs. Todd,

Morrison, and Co., of Fore-street. In that employment, however, he reverted to his former practices, and was at length detected in carrying on a most artful and extensive system of embezzlement. He escaped from justice a second time, but was apprehended by a Bow-street runner in Edinburgh, under the assumed name of Williams, and in the disguise of a half-pay officer. Being brought back to London, he was convicted at the Old Bailey in the year 1828, and sentenced to transportation for fourteen years. Shortly after his arrival in New South Wales, he was sent to the penal settlement of Wellington Valley, which had been formed by order of the home government, at the distance of two hundred miles from Sydney, for the reception of educated convicts. By insinuating himself, however, into the good graces of the Scotch superintendant of that settlement, he was very soon allowed to come down to Sydney, where he was recommended from one government-officer to another, till he fell into the hands of the Archdeacon (now Bishop) Broughton, by whom he was employed as a clerk in the ecclesiastical corporation-office, and through whom, if I am not mistaken, he obtained a ticket of leave. On the breaking up of the corporation establishment, his abilities as a book-keeper, and also as a writer of articles for the colonial press, were so well known in Sydney,

that he was offered employment at the same time by the proprietors of two colonial newspapers,—the Sydney Gazette, which is published three times, and the Monitor, which is published twice a week. He was pleased to accept employment in the former of these establishments, of which he soon obtained the entire management and control; the proprietors being the widow and children of the former editor, and the actual editor being an emancipated convict, of dissipated character and improvident habits, who was consequently a fit person to become the tool and accomplice of artful villany.

Such were the two hopeful individuals who were thus duly authorized and enabled, so lately as during the years 1834 and 1835, to read lectures thrice a week, to the whole colony of New South Wales, on matters of government and legislation; *on the manner in which convicts ought to be treated in a penal colony, and on the very slight difference that there really was either in character or conduct* (for such was the usual style and tendency of their writings) *between free emigrants and convicts.* In short, I have no hesitation in expressing it as my belief and conviction, that it was the uniform tendency and design of the writings of these individuals, as it has also been that of all other public writers of convict origin

in the Australian colonies, to reduce the reputable portion of the community to the same level with themselves; to abolish all those salutary distinctions which the laws of God and of man have created between right and wrong; and, if possible, to dispossess the whole convict population of all sense and feeling of degradation and criminality.

That a convict merely holding a ticket of leave, and consequently under the strict *surveillance* of the colonial police, should have been allowed to occupy a situation of such commanding influence in a convict colony may perhaps appear unaccountable to the reader; but as it is no business of mine to attempt to explain the fact, I shall only observe, that the suspicion of connivance at the subsequently detected delinquencies of this individual, on the part of certain officers of government, was universal throughout the colony; as it eventually appeared, that he had not only been excused from attending the regular musters of ticket of leave holders, but had even been living for some time, with the knowledge of the police, in a state of concubinage with a female convict illegally at large. That convict female was afterwards forwarded to the Factory, or government prison for female convicts, at Parramatta; which, in this particular instance, as it has doubtless been in numberless others, was converted into a lying-in-

hospital, maintained at the public expense, for the convict concubines of *gentlemen convicts*, enjoying, like Watt, unmerited and grossly-abused indulgence from the colonial executive; the illegitimate child of these worthies having been duly baptised and registered * under the name of Watt by the pious chaplain of the neighbourhood. The reader will, of course, have no difficulty in conceiving how connivance of this kind could be repaid by an individual having the command of so powerful an engine as the press.

Watt was at length tried in the Supreme Court of the colony, at the instance of the proprietors of the Herald newspaper, on a somewhat singular charge. In the year 1834 an anonymous letter had been written for publication in that journal, reflecting on the character and conduct of an individual in Sydney, who had formerly been a convict, but was then free. In the hurry of business it was put in type, but, on being read for correction, it was found to be libellous and unfit for publication, and was consequently suppressed. Watt, who was then sole manager in the Gazette Office, got intelligence of the circumstance; and being desirous of having the proprietors of the Herald, who were reputable free emigrants, sub-

* As the Act directs—not the Acts of the Apostles.

jected to an action for libel ;—a course, which, in a colony abounding in needy and rapacious lawyers, is not unfrequently resorted to by artful villany and conscious worthlessness, as an approved instrument of torture for honest men,—bribed an emancipated convict compositor in the Herald Office to steal for him a proof or printed copy of the suppressed article ; which he immediately enclosed in an anonymous letter, written in a feigned hand, and transmitted through the colonial post to the person to whom it alluded, that its being forwarded through so public a channel might be pleaded as a legal publication. The action was accordingly instituted, but was eventually lost ; its main object, however, being gained to a certain extent, in subjecting the parties interested to much inconvenience and considerable expense. It was more than eighteen months afterwards, when Watt's villanous procedure in the whole matter came to light. On its being discovered, he was tried in the Supreme Court on a charge of felony, but was acquitted ; the jury consisting partly, if not chiefly, of emancipated convicts. His acquittal was hailed by the worthless portion of the community — convicts and emancipated convicts, of the lowest grade—as the triumph of their principles and party ; but his Honour Mr. Justice Burton, who presided at the trial, having

represented to the governor, from the facts elicited in the course of it, that Watt was an unfit person to be allowed to remain any longer in Sydney, His Excellency ordered him forthwith to Port Macquarie, a subordinate settlement about two hundred miles to the northward.

In the course of his defence in the Supreme Court, Watt had made an outrageous attack on a magistrate of the territory who was in no way connected with the affair: for this outrage he was called to account before the Sydney bench of magistrates, to whose summary jurisdiction he was amenable, as a convict holding a ticket of leave. The outrage, it appeared, was not punishable; but various other charges being exhibited against Watt, the magistrates determined to enter into them at length. The investigation that ensued lasted many days; and in the course of it, Watt's whole manner of life in the colony, and the countenance he had been receiving from certain officers of government, fully appeared, notwithstanding a formidable array of perjury and chicanery of every description which were sedulously employed on his behalf. To the utter astonishment of the colony, however, several of the most respectable magistrates of the territory, who had been concerned in conducting the investigation,

and who had, perhaps, acted in the matter with greater zeal than prudence, were shortly after publicly dismissed from the commission of the peace!

On his arrival at Port Macquarie, Watt obtained permission to marry the widow of the former proprietor of the Gazette, whose valuable property he had reduced to the brink of ruin; and having subsequently succeeded in ingratiating himself into the favour of the police magistrate of the settlement, he was the means of sowing so much dissension between that officer and the harbour-master, that a commission of inquiry had actually to be appointed to proceed to Port Macquarie in the month of May last (1836), to investigate their mutual criminations. The result of that commission was the dismissal of both these functionaries, and an order for the immediate cancelling of Watt's ticket of leave. On being apprised of this order, Watt absconded; and the last account of him, in August 1836, was that he had been apprehended, and flogged as a runaway!

Now, that a criminal like Watt, who ought unquestionably to have been doomed for a long period to hard labour and solitary confinement, should have been allowed to occupy a station of such commanding influence, as that individual

attained so very lately in the penal colony of New South Wales, even during the period of his sentence of transportation,—subjecting the characters of various officers of His Majesty's Government to general suspicion, from alleged connivance at his delinquencies; occasioning the dismissal of various respectable magistrates from the commission of the peace, for investigating these delinquencies somewhat too minutely; occupying the time of courts of justice and benches of magistrates for weeks together, and thereby commanding all the while the exclusive attention of the press and the public; and finally raising up a formidable party in the colony for the countenance and protection of vice and villany;—that a state of things, implying so enormous a perversion of justice, should be permitted to subsist at the present moment in any part of the British empire, is (to say the very least of it) as strange in itself as it is disreputable to the British nation. Talk of the tendency of transportation as a species of punishment! It would, indeed, have been miraculous if transportation had been found conducive in any degree to the prevention of crime and the reformation of criminals, under a system of management so thoroughly monstrous.

CHAPTER IX.

SUGGESTIONS FOR ENSURING THE FUTURE EFFICIENCY OF TRANSPORTATION AS A SPECIES OF PUNISHMENT. — CHANGES IN THE SYSTEM TO BE EFFECTED IN ENGLAND.

From the preceding enumeration of the causes that have operated in producing the comparative failure of the transportation system, whether as a means of preventing crime in the mother country or of reforming criminals, the reader will doubtless perceive, that that failure is not to be regarded as the necessary result of the transportation of criminals, but rather as the natural and unavoidable consequence of gross abuses, which it is, perhaps, comparatively easy to correct for the future;—of sheer mismanagement, of which it is probably by no means difficult to prevent the recurrence. At the same time, the calamitous

results of the system of abuse and mismanagement I have described, in regard to the moral and political welfare of the rapidly advancing and flourishing colony of New South Wales, have latterly become so prominent and so unquestionable, that, under the idea of there being no other remedy to be had recourse to, there is now a very considerable and daily increasing number of the most respectable inhabitants of that colony, who maintain that the transportation of convicts to New South Wales ought to be forthwith and entirely discontinued; insomuch, that during the last two years the most respectable portion of the colonial press has been strenuously advocating the immediate and entire discontinuance of the importation of convicts, as a measure of indispensable necessity for the future welfare of the colony.

Indeed, if the system hitherto pursued in that colony, in regard to the management of the convicts, is to be continued, and if all the evils I have enumerated as having already resulted from that monstrous system, are not only to be entailed on the colony, but to be augmented and perpetuated *ad infinitum* by large annual importations of criminals from Great Britain and Ireland, the entire and immediate discontinuance of transportation, as a species of punishment, is

"a consummation devoutly to be wished" by every reputable inhabitant of New South Wales. That colony is now completely saturated with the depravity to which the transportation system, as it has hitherto been carried into operation, has necessarily given birth; and the addition of fresh importations of criminals, at the rate of three thousand annually, to be disposed of as they have hitherto been in the colony, will only increase and aggravate that depravity. In short, from the facts I have already adduced, it must be evident that New South Wales is no longer a fit place for the transportation of criminals under the existing system of colonial management, whether the object of the imperial legislature be the prevention of crime in England, or the reformation of transported criminals.

At the same time, conceiving as I do, for reasons already stated at considerable length, that the transportation of criminals to the continent of New Holland is a most valuable provision of the criminal jurisprudence of the empire, and that no other means of equal efficiency can possibly be devised for ridding the mother country of a large portion of its culprit population, and for eventually transforming a considerable portion of that population into reputable citizens; I shall now point out such changes as it appears to me indis-

pensably necessary to effect in the general administration of the transportation system in the penal settlements of the empire, in order to render that system powerfully efficient as a species of punishment for the future, and at the same time safe and salutary to the colony of New South Wales, and beneficial in the highest degree to the rest of the empire.

Before pointing out, however, the nature and extent of the changes that ought to be effected forthwith in the administration of the transportation system beyond seas, it may not be inexpedient to premise a few observations as to what may be done in the mother country, to ensure the future efficiency of that species of punishment. I conceive, therefore, that it would be highly expedient for the future to carry the sentence of transportation into effect only in the case of criminals under sentence for fourteen years or for life. Indeed, if it were practicable so to modify the criminal law, as to pass sentence of transportation only for life, much benefit, in regard to the future efficiency of the punishment, might be derived from the change. Such a change would enable the executive of the penal colony to adopt one uniform course of procedure towards all convicts, while it would afford sufficient time in every instance to put the efficacy of that procedure to

the test: it would also enable the executive to fix the convicts for life to one spot or district in the penal territory, and to reduce them at any time to the condition of convicts, after they had obtained conditional freedom, on the slightest manifestation of criminality. Under the existing system of management, uniformity of treatment is so little studied or effected, that, as I have already remarked, transportation is a matter of as great uncertainty in its issue as a lottery-ticket—it may be a prize to the criminal, for aught the government can tell; or it may be a blank.

Again, as to the time afforded for making an experiment on the moral capabilities of the criminal; under the existing system, the convict for seven years is entitled to a ticket of leave, or conditional freedom, after the expiration of four years' service in the colony; provided he has committed no fresh offence, or rather been subjected to no additional punishment in the mean time. But as he is probably much better clothed and fed during these four years, than a large proportion of the free agricultural labourers of Great Britain or Ireland, and is not expected to perform any thing like the same quantity of labour which these labourers must perform, to earn even a scanty subsistence; it is preposterous to consider transportation for seven years as a punish-

ment at all in the great majority of instances, or to expect that under such a system the criminal propensities of the convict should be repressed, or his reformation effected. Again, the benefits that would result from the Colonial Executive's having an absolute power over the persons of all convicts, so as to be able to reduce them at any time to the condition of penal servitude, without the formality of a trial, on their being found guilty, before one or more magistrates, of any crime or misdemeanour, after having attained conditional freedom, or to confine them, notwithstanding that freedom, to a particular district,—are self-evident: indeed, nothing could possibly operate more powerfully, as a restraint on the criminal propensities of the liberated convict, than such a power on the part of the administrators of the law.

To invest the Colonial Executives with such a power over the persons of all convicts, as transportation for life should imply, it would be expedient, moreover, that that sentence should in future be passed only on one or other of the two following classes of criminals; viz. 1. criminals guilty of atrocious crimes; and, 2. criminals who had already undergone a milder punishment for a first offence, and been afterwards convicted of a second. It would surely be no unreasonable stretch of severity to subject criminals of the first

of these classes to perpetual *surveillance*, to summary jurisdiction for life, and, in the event of their obtaining conditional freedom after a long course of good behaviour, to compulsory residence in a particular district or settlement; in which ardent spirits, the grand incentive to crime, should be absolutely prohibited, and strong inducements held forth to reputable and virtuous conduct. On the other hand, if a series of penitentiaries were to be formed in England on the American model, in which criminals, guilty of such crimes as at present subject the perpetrator to a sentence of transportation for seven years, should be subjected to hard labour and solitary confinement for two, three, or four years; not only might transportation for seven years be discontinued as a species of punishment, but a considerable number of criminals, of the class to which that punishment is at present awarded, might be permanently reclaimed and retained in England. If hard labour and solitary confinement, however, in a well-regulated English penitentiary, should be found insufficient to repress the criminal propensities of the culprit, who has been subjected to such punishment for a first offence, let that culprit, on being convicted a second time, be transported either for life or for fourteen years, according to the nature and aggravation of his two offences,

and be subjected to the same treatment in the penal settlement, as the criminal of more atrocious character transported for his first offence. By this means the mother country would be gradually cleared of the irreclaimable portion of its culprit population, while sufficient time would be afforded for subjecting the culprits to an efficient system of penal discipline beyond seas.

Whether educated or gentlemen convicts should hereafter be transported to the penal colonies of New South Wales and Van Dieman's Land, should the convicts in these colonies continue to be managed as they have hitherto been, will scarcely admit of question after the preceding details. But if the law is to be allowed to have its due course in future, and if that course is to be uniform, definite, and certain, I can see no reason why the educated criminal, who can make an apposite quotation from Lucretius, (as a felon in double irons lately did to a respectable traveller in New South Wales, who, from charitable feelings, offered him a piece of tobacco, when passing the road-gang to which he was attached,) should not be subjected to the same course of penal discipline as the unlettered labourer from the bogs of Ireland. There are many good reasons why criminals of this description should be sent out of England; but there is no reason what-

ever why they should be allowed to nestle themselves in Sydney, to disturb a whole colony, by exciting the worst passions of the worst characters in the empire, and thereby to expose His Majesty's government, as in the case of the convict Watt, to suspicion and distrust. There are fifty localities on the coast of New Holland, where a penal settlement, to be properly organized and conducted from the first, might be formed with the utmost facility. Let gentlemen convicts be transported for the future to a settlement of that kind; and, if under sentence for life, let them never be permitted to leave it. Away with the mawkish sentimentalism of those who would tell us, that such characters have never been accustomed to field-labour! It is necessary, I reply, that they should be accustomed to it: it is good for their moral health that they should learn to wield the spade and the hoe; and it is surely much better for that of the nation, that they should learn the use of these implements betimes, than that they should be permitted to wield such an instrument, either of good or of evil, as the public press.

CHAPTER X.

THE DISCONTINUANCE OF THE ASSIGNMENT SYSTEM EXPEDIENT AND PRACTICABLE.

The moral effect of a punishment depends, in a very slight degree only, on its comparative severity. The laws of Draco may, indeed, be written in blood; but as human nature revolts at the execution of sanguinary statutes, the chances are, that, under such a system of legislation, the sympathies of the public will oftener be with the criminal than with the law; that the latter will, consequently, be but rarely enforced, and that the really guilty will too frequently escape with impunity. The legislator should therefore incline rather to mildness than to severity, and depend, for the moral effect of the punishment he denounces, on its being uniform in its operation,

definite in its amount, and certain in its infliction. Now, as it is evidently impossible, in the present condition of the Australian colonies, that the practice of assigning convicts as servants to private individuals should realize any one of these requisites of punishment, I conceive it is absolutely necessary, for ensuring the future efficiency of transportation, as a species of punishment, that that practice should be forthwith and for ever discontinued; and that all transported convicts should henceforth serve out their term of transportation at the public works, and be subject to one uniform and undeviating system of penal discipline.

Shortly after the original establishment of the colony of New South Wales, the assignment of convicts as agricultural labourers, mechanics, or house-servants to private individuals, was had recourse to, rather as a matter of convenience to the government than with the view of carrying into effect any well-digested system of penal discipline: for, in carrying out this arrangement, the government were merely desirous, on the one hand, of being eventually relieved of the maintenance of a large proportion of the convicts; and of enabling the colonists, on the other, to supply the settlement as speedily as possible with the necessaries of life.

The hardships experienced by all classes of

the colonists for some time after the commencement of the settlement, were sufficient to neutralize the evil consequences of this arrangement. The circumstances of the colony, however, are altogether different now; for the necessaries of life being now in great abundance and comparatively low-priced, the settler generally finds it his interest to give his convict servants such indulgences as are incompatible with a state of punishment, to render their situation as comfortable as he can, and thereby to obtain, with the least possible inconvenience, the largest possible amount of manual labour. In short, it is not the interest of the prudent settler, who merely studies his own personal advantage, to make his assigned convict servant feel his situation to be a state of punishment: but as all settlers are not gifted with this degree of prudence, (some individuals of that class yielding themselves up occasionally to the influence of violent passion, while others evince the utmost blindness in regard to their own interests,) the practice of assignment, as a species of punishment, is necessarily extremely unequal in its operation; the service of certain masters being really a state of hardship and punishment, to a degree almost intolerable to human nature; while that of others is rather a state of idleness and indulgence. Nay, it cannot be denied, that

there are masters in New South Wales, who set so scandalous an example before their convict servants, and treat them on all occasions so much more like brutes than men, that the reformation of a convict in their employment is absolutely hopeless, and his depravation certain. Besides, the facility with which the assigned convict servants of many private individuals can procure ardent spirits, and the temptation which is thus held out to them to resort, as they too often do successfully, to dishonest and vicious practices to procure this indulgence, effectually preclude the possibility of reformation, in the case of a large majority of that class of the convict population.

It may be urged, indeed, that convict labour, in the way of assignment to free settlers, is indispensably necessary for the development of the resources of the colony, and for securing its rapid and progressive advancement; while, on the other hand, the employment of all the convicts, who might hereafter be transported to New South Wales, at government labour and under government superintendence, would subject the British government to an enormous and intolerable expense. I shall endeavour to meet these objections in order.

In regard, then, to the alleged necessity for continuing the assignment system, to supply the

want of labour in New South Wales, I reply, that if the discontinuance of the system of assigning transported criminals, as agricultural labourers or as house-servants, to the free settlers of that colony, can be demonstrated to be expedient and necessary for the prevention of crime in England, and for the reformation of transported criminals, we are not to be told that the New South Wales settlers cannot dispense with convict labour. The interests of the British empire, which undoubtedly require that transportation should be rendered really efficient for these purposes, are not to be sacrificed for the private advantage of the free settlers of that colony. It is gratifying, however, to be able to state, that the interests of the free colonists of New South Wales are not opposed in this particular to the general interests of the empire: for I trust I shall be able to make it abundantly evident, that in the present advanced state of that colony, the assignment of convicts to private individuals is no longer necessary for the development of its vast resources, or for securing its rapid and progressive advancement. The free colonists of New South Wales may be divided into the three following classes:—

1st. Proprietors of sheep and cattle; depending chiefly, if not exclusively, on the increase and produce of their flocks and herds.

2nd. Agriculturists; depending chiefly, though not exclusively, on the cultivation of land.

3rd. Inhabitants of towns,—viz. government officers, professional men, merchants, shopkeepers, and mechanics.

In former times, and even till within the last few years, the pursuits of all these three classes of free colonists were generally combined; the merchant, or keeper of a store in Sydney, having a farm at no great distance in the interior, on which he cultivated grain for the colonial market, and depastured sheep and cattle, by means of convict labour, under the superintendence of ticket of leave, or free overseers. But this is now no longer the case, except in a very few instances. The three classes of colonists above enumerated are now becoming quite distinct from each other; the extensive proprietor of sheep and cattle seldom growing more grain than is absolutely necessary for the supply of his own establishment, and frequently depending even for that supply on purchase from others; while the cultivation of grain and of other farm produce for the colonial market is progressively falling into the hands of settlers of an inferior class; the inhabitants of the towns subsisting in the mean time on their government salaries, their professional or mercantile pursuits, their shops or their handicrafts.

The property and wealth of the first of these classes consisting chiefly in their flocks and herds, the convict labourers assigned to settlers of that class are employed exclusively as shepherds and herdsmen; and as a flock of sheep consists of from three hundred and fifty to one thousand head, according as the country is more or less open, while the value of such a flock is at present from £500 to £1500, the convict shepherd or herdsman is necessarily entrusted with a large amount of valuable property, which, as a matter of course, subjects him to the strongest temptations to steal, or to connive at stealing from his master; and gives him the power of injuring his master, if he has in any way incurred his displeasure, in a great variety of ways, and to an incalculable amount. In this way, sheep and cattle stealing has, within the last few years, grown into a regular system in New South Wales, and is now practised to a prodigious extent;* numbers of the native youth of the colony, whose character in this particular at least was formerly above all suspicion, having latterly embarked extensively in the criminal practice, doubtless through their unhappy

* I have known cases of large proprietors of stock in the colony having 150 or 200 head of cattle missing at one time.

association with convict shepherds and herdsmen, ticket of leave men, and emancipated convicts possessed of sheep and cattle in the interior. In this way also, a large amount of valuable property is annually lost or destroyed throughout the territory, through carelessness or evil intent. On the other hand, the colonial proprietors of sheep and cattle are now well able to employ free emigrant herdsmen and shepherds ; and the small additional expense which the employment of such persons would cost them, in comparison with that of convict labour, would be repaid them ten times over in the preservation and security, and consequently in the greatly increased value, of their flocks and herds. The continued assignment of convict servants to this class of colonial settlers is therefore no longer necessary, as a means of advancing their individual prosperity ; while it is obviously ruinous to the morals of the native youth, the rising generation of Australia.

As for the second class of settlers, the growers of grain and other field produce for the colonial market, as they consist generally of industrious emancipated convicts, or of free emigrants, originally of the class of agricultural labourers, who have previously lived as hired servants on estates in the colony ; it is obvious that they do not constitute a class of persons to whom

convicts ought to be assigned on any account: for as convicts in the service of such settlers find themselves in all other respects on a level with their masters,—being engaged in the same labour, living on the same fare, and sitting at the same table,—they lose all sense of degradation and criminality, and not unfrequently corrupt those to whom they are thus assigned, provided they have any good principle remaining. Besides, it is equally practicable for the tenant or proprietor of a small agricultural farm in New South Wales to cultivate his land by his own labour, and by that of his family, with perhaps one or two hired servants, as in the mother country. It is true, there are settlers of the first respectability in New South Wales, who still cultivate extensively by means of convict labour, and who uniformly discourage the formation of an agricultural tenantry on their estates; but this state of things has arisen and is still continued from necessity, and not from choice: an emancipated convict tenantry, which has hitherto been almost exclusively the only sort of tenantry procurable in New South Wales, being generally a prodigious nuisance to the neighbourhood; as tenants of this class are, for the most part, receivers of stolen goods, and sellers of ardent spirits to the convict servants of the neighbouring proprietors. But if a reputable free emigrant

tenantry could be procured, so as to afford eligible terms to both proprietor and tenant, very few settlers of respectability in New South Wales would continue to cultivate their own land, especially if the assignment system were discontinued.

As to the third class of the free inhabitants of New South Wales, I mean the inhabitants of towns, it is just as preposterous to continue to assign convicts to such persons, to be employed, as they almost uniformly are at present, as house-servants, as it would be to assign them for employment in the same capacity to the inhabitants of any town in Great Britain or Ireland, provided there were the same means of preventing their escape in the mother country as there are in New South Wales. The punishment, if it can be so called at all, is by no means adequate to the criminal's offence, in ninety-nine cases out of every hundred; and, to speak of it as a means of preventing crime in England, and of reforming the transported criminal, is downright mockery. Besides, assigned servants in the town of Sydney have a thousand ways and means of procuring money, and all those unhallowed indulgences that money can purchase every where, without the knowledge or permission of their masters; or, at all events, they have the means of passing the term of their servitude in com-

parative idleness, and in the acquisition or perpetuation of habits that render them unfit for any useful purpose, and a mere dead weight upon the community, on the expiration of their period of bondage. In short, whatever other parts of the transportation system, as it has hitherto been administered, may yet be retained, I conceive it is absolutely necessary for the moral welfare of the colony of New South Wales, to discontinue the assignment of convicts as domestic servants to the inhabitants of towns forthwith, and to prohibit their future residence in these towns, under the severest penalties.

CHAPTER XI.

THE PRACTICABILITY OF OBTAINING FREE LABOUR FROM THE MOTHER COUNTRY, TO THE FULL EXTENT REQUIRED IN NEW SOUTH WALES.

The discontinuance of the assignment system in the Australian penal colonies necessarily presupposes a facility of obtaining free labour in that colony to whatever extent it may be required in future, by all the three classes of colonists above enumerated. It would obviously be preposterous for any person at all interested in the welfare and advancement of the colony to recommend the discontinuance of the assignment of convict labour to colonial proprietors, if no other species of labour of a more eligible character were procurable. This was undoubtedly the state of things in New South Wales five or six years ago. At that time free labour

was not to be had in the colony; and it was not to be procured from the mother country but at great pecuniary expense and risk. In such circumstances, convict labour could not possibly have been dispensed with by the free inhabitants of the colony without absolute ruin; and the subject, therefore, of the continuance or discontinuance of the system in practice could not admit of argumentation. I am happy to state, however, that while the assignment system has, during the last five or six years, been becoming more and more objectionable every day, from the combined operation of the causes above enumerated, as well as from the assimilating property of concentrated depravity, when allowed to exert its natural influence on the *matériel* within its reach; the circumstances of the colony have during the same period become completely changed, both in regard to the practicability of procuring free labour from the mother country to any extent, and to the means of enabling the colonial executive to employ at the public works of the colony, and under efficient superintendence, the whole convict population.

In the year 1831, His Majesty's government were induced, on the representations of certain philanthropic persons in England, to discontinue the practice of making free grants of land to free

emigrants in the Australian colonies, and to order that all Crown land in these colonies should thenceforward be sold by public auction, on being applied for by intending purchasers; (the upset or minimum price to be five shillings per acre;) and that the revenue arising from all such sales of land should be devoted exclusively towards the encouragement and promotion of emigration. Numerous and strong objections were advanced at the time both in Great Britain and in New South Wales against this change of system; and it was long and loudly asserted, that the proposed arrangement would completely put a stop to emigration, and that no revenue of any amount could ever be realized from the sale of waste land in the colonial territory. I am happy to state, however, that these objections have all proved unfounded, and that the system of selling land has already enabled the colonial government to realize a large and rapidly increasing revenue from that source; the future and exclusive appropriation of which to the encouragement and promotion of emigration promises not only to supply the free colonists of New South Wales with free labour to any extent, but to introduce an entirely new era in the colonial history of the empire, by rendering those transmarine and expensive appendages of the country, which have

hitherto been regarded as drags and dead weights upon its body politic, of which it has sometimes even been represented as inexpedient to retain possession, useful and unexpensive outlets for its superabundant population, and sources of employment and wealth to all classes of its inhabitants, to an extent never dreamt of even by the most sanguine speculators.

At the time when the granting system was superseded by that of selling Crown land by public auction in the Australian colonies, the colony of New South Wales was slowly recovering from the effects of a severe and protracted drought, as well as from an unprecedented depreciation of property of all kinds, induced by extensive and ruinous speculations in sheep and cattle during the years 1826 and 1827. From these unforeseen and calamitous circumstances many of the colonists were deeply involved in debt, and many estates of great extent and value were, from time to time, disposed of at Sheriffs' sales for much less than the minimum price of Crown land established by government. In such circumstances, it was not to be expected that a large extent of such land could be disposed of for some time, even at the minimum price; and accordingly the purchases were at first very limited. In proportion, however, as the colonists began to recover their ground, and especially

when the rapid increase of their flocks and herds rendered the extension of their estates, by the purchase of additional tracts of waste land from the government, absolutely necessary; these purchases increased with great rapidity, insomuch that the revenue arising exclusively from the sale of Crown land in the territory of New South Wales already amounts to considerably upwards of £100,000 per annum; the following being the extent sold during the last six months before I left the colony, with the prices annexed, as compared with the extent sold during the four previous years:—

LANDS SOLD BY THE GOVERNMENT,

From the 1st of January to the 30th of June, 1836.

LANDS.

	Number of acres			Amount sold for		
January	36,960	0	0	£12,358	12	9
February	5,027	0	30	2,080	12	3
March	38,872	0	0	13,429	6	1
April	49,395	2	10	15,439	0	1
May	23,728	0	25	7,137	18	3
June	15,951	0	0	4,440	7	6
Total No. of acres	169,933	3	25	£54,885	16	11

TOWN ALLOTMENTS.

January	16	1	0	£576	18	4
February	8	0	0	121	0	0
March	17	2	0	550	13	4
May	28	0	37	1,919	11	6
June	11	0	0	25	6	8
Total No. of acres	80	3	37	£3,193	9	10
Total for the six months	170,014	3	22	£58,079	6	9

Extent and proceeds of land sold in New South Wales during the years under-mentioned.

Year	Extent in acres			Amount		
1832	20,860	1	15	£6,513	11	6
1833	29,001	2	3	12,528	0	8
1834	91,399	1	31½	28,589	10	5
1835	271,945	2	3¾	87,097	9	2
1836 till June 30.	170,014	3	22	58,079	6	9

This amount, however, large as it is beyond all reasonable anticipation, is likely to be doubled, if not immediately, at least very soon after the colonial boundary to the southward shall have been extended to Bass's Straits,* and the extensive tracts of land of the first quality, in the

* This, I understand, has already been done.

vicinity of Port Philip and Twofold Bay, thrown open to the numerous intending purchasers, who are at present anxiously waiting for the annexation of these districts to the present colonial territory. In the former of these localities,—in which a government settlement was formed and speedily abandoned, through some extraordinary and unaccountable mismanagement, in the year 1804,—a settlement of squatters from Van Dieman's Land has been formed during the last two years; and so highly eligible has the situation been found for a permanent settlement, that it already contains a population of upwards of 200 persons, possessing or having the management of 30,000 sheep, with a proportionable number of horses and cattle. The whole of this agricultural stock and population has been imported into Port Philip from Van Dieman's Land during the last two years or thereabouts; there being now no fewer than eight or ten colonial vessels constantly employed in the transport of stock of all kinds to that settlement from Hobart Town and Launceston. The extent of available land of the first quality, which has already been discovered in the immediate vicinity of Port Philip, amounts to upwards of three millions of acres; but the nature of the country beyond a moderate distance from the settlement is as yet unknown.

The extensive tract of table-land lying beyond the present colonial boundary to the southward, between the Great Warragong Chain, terminating in Wilson's Promontory, and now called the Snowy Mountains, or Australian Alps, and the mountainous range abutting on the east coast, is also occupied at present by numerous squatters, with large flocks and herds from New South Wales. This elevated tract of country is called Maneira, or Monaroo Plains, and consists of eligible pasture-land of the first quality, very thinly wooded and well watered; forming a square of a hundred miles each side, and consequently containing upwards of six millions of acres, having for its outlet to the eastward the small but convenient and safe harbour of Twofold Bay, about twenty-five miles to the northward of Cape Howe. The nature of the country still farther to the southward, from Cape Howe to Wilson's Promontory, a distance of a hundred and eighty miles, is still unknown. The Snowy River skirting the plains to the westward, and sweeping along the base of the Snowy Mountains, descends into Bass's Straits on this part of the coast, forming numerous cataracts in its course; its *embouchure*, if I am not misinformed, being sufficiently wide and open to be practicable for colonial vessels.

The extensive tract of picturesque and pastoral

country still farther to the westward, along the left bank of the Morumbidgee, which is at present the boundary of the colony to the southward and westward, is also occupied for pastoral purposes by numerous colonial squatters from within the present limits of the colony. These squatters are all rapidly increasing their flocks and herds, and thereby enriching themselves through the permissive occupancy of the Crown land beyond the present limits,—a privilege which has hitherto been most judiciously allowed them by the colonial executive: for these persons are thus acquiring the means of making extensive purchases of land from the government in their respective localities, whenever the colonial boundary shall have been extended to Bass's Straits; and are thus forming an important link in the new chain or system of Australian colonization.

Now, as it is equally the interest of the British government and of the colonial executive, as well as of all classes of free colonists in New South Wales, that the revenue arising from the sale of Crown land in that colony should be as large as possible, and that the number of free emigrant agricultural labourers, shepherds, and mechanics, which this revenue has been appropriated to import into the colonial territory, should also be increased to the utmost; I would beg leave to sug-

gest that the minimum price of all Crown land in the colony should henceforth be raised to seven shillings and sixpence, and, in particular districts, to ten shillings per acre. A large proportion of the land recently purchased by resident proprietors in New South Wales, in extension of their respective estates, would have been purchased at these rates as readily as at five shillings; for much of the land hitherto sold at the government minimum price has been purchased on speculation, to be afterwards resold at a greatly advanced price. Good land, whether for agriculture or for grazing purposes, especially in such vicinities as Twofold Bay and Port Philip, is well worth ten shillings an acre, and the colonial proprietors of sheep and cattle are well able to afford that price. Nay, Mr. Commissioner Bigge, in his Report to the House of Commons on the agriculture of the colony in the year 1821, recommended that good land in New South Wales should then be sold at not less than ten shillings per acre; and if the colonial settler could have afforded such a price at that period, much more will he be able to afford it now. Besides, it would be positively unjust for the British government to be selling waste land at Port Philip at a minimum price of five shillings per acre, when the minimum within the limits of the South Australian colony, almost in its imme-

diate vicinity, has been fixed by Act of Parliament at twelve shillings; a minimum, which the colonization-commissioners of that colony have since increased to one pound: for as the price of all descriptions of agricultural and grazing stock, as well as of the necessaries of life, will for some time be much cheaper at Port Philip than in Southern Australia, it is not to be supposed that a prudent capitalist, arriving in the latter colony, would be deterred from crossing the meridional line that separates the one colonial territory from the other, when the comparative advantages of the two localities are in all these important respects—the price of land, of stock, and of provisions,—so very dissimilar. That line will soon be crossed in every part of its extent by sheep and cattle tracks innumerable, from the territory of New South Wales; and the emancipist, the ticket of leave man, and even the convict still in bondage, will ere long find their way across it into the land of freedom, let the colonists of Southern Australia do what they may to prevent them. In justice, therefore, to the inhabitants of that infant colony, His Majesty's government will undoubtedly be eventually constrained to raise the minimum price of land in New South Wales; and the sooner they do so, the more effectually will they protect the interests of the embryo colony: for it cannot

be supposed, that in the present age of steam-conveyance, any great inequality in the price of land, any more than in the price of labour or in that of provisions, can possibly be maintained long between two settlements so easily accessible from each other both by sea and land, however differently they may have been originally constituted in other respects.*

But there is also a large increase of the land revenue of New South Wales to be expected from the sale of town allotments. In a letter, which I

* It is the general desire, however, of the free colonists of New South Wales, and it has also been a special recommendation of a committee of the Legislative Council of that colony, with a view to the encouragement and promotion of emigration to its extensive territory, that respectable free emigrants arriving from England at their own charges, with the view of settling in the colony, should each be allowed to purchase one or two sections, that is, 640 or 1280 acres of waste or Crown land, at the established minimum price, wherever they can find an eligible locality, without being liable to the mortification and disappointment of being outbidden at a public sale by some colonial land-shark, after all their trouble and annoyance in traversing the country, perhaps, for months together. It is also the desire of the colonists generally, and the recommendation of a committee of the Legislative Council, that every such emigrant should also be allowed a certain drawback from the purchase-money of his land, to cover the expense of his passage out. In the propriety of both these suggestions I entirely concur.

did myself the honour to address to Lord Viscount Goderich in December 1830, previous to the adoption of the present system of selling land, and in which I took the liberty to recommend that the government should sell certain Crown lands and town allotments in that colony, and appropriate the proceeds towards the emigration of agricultural labourers and mechanics, of whom a large number were then in great difficulty from want of employment in England, I pointed out certain town allotments belonging to government in the town of Sydney, which I conceived would at that time realize £200,000. Measures are now in progress for the sale of these allotments, of which, from the greatly increased value of property in the colonial capital, the present value has been estimated by competent persons at not less than half a million sterling. Besides, the formation of towns at Twofold Bay and Port Philip, which must necessarily become sea-ports of first-rate importance within a very short period, as well as in various other parts of the territory, will enable the colonial executive greatly to increase the land revenue, from the sale of town allotments. The minimum or upset price of town allotments belonging to government in the town of Sydney is at present £1000 per acre, the price actually realized by private individuals for eligible allot-

ments during the last few years being uniformly much higher. In the future towns of Twofold Bay and Port Philip, £50 or £100 per acre would, I am confident, be a very moderate amount to be established as a minimum price; as even at Bathurst, a rising town beyond the Blue Mountains in the interior, £50 an acre has been obtained for town allotments. The present minimum price in Parramatta, the second town in the colony, is £20, but the allotment obtained from government for the Scots church in that town during the year 1835 has been since valued at £1000, although not more than half an acre; and in the town of Maitland at Hunter's River, where £7 an acre is the minimum price, a half-acre allotment has brought £56.

At all events, it may be calculated that the revenue arising from the sale of land in New South Wales will very shortly amount to £200,000 per annum; and if that revenue is exclusively appropriated to the introduction of useful emigrants of the working classes into the colony, it will enable the free colonists to import a sufficient number of virtuous and industrious labourers, artisans, and other operatives of all descriptions, not only to supply the existing and rapidly increasing demand for labour in the colony, but also to form a reputable free emigrant peasantry, to cultivate the

soil, either as tenants or as small proprietors, and a middle class, consisting of reputable mechanics and other operatives in the towns; thereby gradually elevating the moral character of the colony, and supplying the likeliest means of ensuring the progressive amelioration of its anomalously constituted society. It is therefore unquestionably evident, that the colony of New South Wales possesses the means of supplying itself with free labour, to the utmost extent required by its free population; and that the discontinuance of the assignment system might therefore be effected without the slightest injury to the colony, as far as the necessity of providing a substitute for assigned convict labour is concerned.

To encourage and promote the importation of free labour, in accordance with the views and intentions of His Majesty's government as above-mentioned, the colonial executive give a bounty of £30 from the colonial land revenue for every married couple, of the class of agricultural labourers, shepherds, or mechanics, imported into New South Wales, provided the persons so imported have been selected by some agent duly authorized by a colonial proprietor; five pounds additional being allowed for every child above a year old. On a large scale, this sum would probably be sufficient to cover the whole expense

of the emigration of such persons; but the system has not yet been sufficiently long in operation for the colonists to have adopted any plan for carrying it into effect with combined exertion; and the expense to individuals is consequently somewhat larger than the sum allowed.

It will naturally occur to the reader, however, that so long as convict labourers can be procured for nothing by colonial proprietors, the latter are not likely as a body to make the requisite exertions to procure free labour from the mother country. The change of system would necessarily subject them, moreover, to some temporary inconvenience, and would require considerable effort; and men who are tolerably comfortable in their circumstances already, are not likely to disregard such considerations, even for the prospect of ultimate pecuniary advantage, much less for the promotion of the moral welfare of their families and of posterity. In short, strong representations and combined exertions on this subject are not to be expected from the colonial proprietors. The government must discontinue the assignment system forthwith, if they are really desirous that transportation should be made efficient as a punishment, and that the colonists should put forth their energies in availing themselves of the means they have now so amply at command, of eventually raising

the character of the colony in the scale of civilized communities, by the annual importation of numerous industrious and virtuous free emigrants from the mother country.*

In regard to the probability of finding a sufficient number of virtuous and industrious persons in the mother country willing to emigrate to New South Wales, there can be no doubt whatever on the subject. It is well known that distress, arising from the want of food and clothing and fuel, or rather from the want of remunerating employment for an overgrown population, prevails at this moment to a most appalling degree over an extent of country in the Highlands and Islands of Scotland, containing a population of 160,000 souls; and the only means of affording permanent relief to that population, in the opinion of all parties interested in the subject, is emigration. The following are extracts from a paper circulating at present in London, and illustrative of the state of things in the Highlands and Islands of Scotland, and of the quarter from which alone a remedy for so calamitous a state is to be looked for.

"The Rev. Mr. Macgregor, of Kilmuir, in Skye, thus writes, under date of February 3rd, 1837:—

* The remainder of this chapter was written in London (March 1837) while the work was in the press.

'The present population of Kilmuir is 2275 souls;—of which,

99 families, consisting of 431 souls, are quite destitute.

31 families, consisting of 128 souls, have only food for one month.

44 families, consisting of 222 souls, have only food for two months.

27 families, consisting of 144 souls, have only food for three months.

71 families, consisting of 365 souls, have only food for four months.

Very few families in the parish will have any food of their own by *the end of July*.'

"The reverend gentleman goes on to state the causes which have led to this fearful state of destitution, and the best means of preventing the recurrence of such a calamity. — In regard to emigration, the reverend gentleman adds:

'But, among any measures to be taken with the view of permanently preventing or alleviating such distress for the future, I humbly think that emigration should be a preliminary step. The apparent increase of the population of this parish, in the census of 1831 over that of 1821, was only 28. This small difference is, however, accounted for, by the fact, that, in the interval, about 250 individuals had emigrated to America. But emi-

grations of this character are not calculated to give much relief; as it is only able-bodied people, and in good circumstances, who can leave the country at their own expense, while the poor and helpless are left behind; so that emigration, in order to be beneficial, will require to be taken up as a public measure. If the country were thus relieved of its surplus population, I am perfectly satisfied that the introduction of an improved system of agriculture would go very far to prevent such a visitation as we are afflicted with at present.'"

A similar state of appalling destitution prevails also in the parish of Sleat in the same island, where a public meeting, convened for the purpose of taking into consideration the actual condition of the parish on the 22nd of December, 1836, sum up their report with the following observations:

"With respect to the application of a remedy, to prevent a recurrence of such painful circumstances in future, the meeting see none, except emigration. The country is altogether adapted for pasture, and suited only for a limited population: when the population exceeds these limits, poverty and distress must ensue. It appears to the meeting, that neither manufactures nor fishing could be introduced with advantage; great distance from the raw material, and also from a con-

suming market, being an insuperable objection to the former; and the fact, that fishing has failed for some years on this coast, after a fair trial, appears to prove that the latter cannot be looked to as a permanent source of employment and support."

From the island of Lewis, containing a population of 14,541 persons, the minister of the parish of Stornoway, in which alone there are no fewer than 1530 persons in a state of absolute destitution from the want of subsistence, of clothing, and of fuel, concludes his report by observing :—

"I can, however, have no hesitation in stating my opinion, that no means of relief would be more effective, than promoting the emigration of a certain number of the more vigorous to the British possessions in America."

The inhabitants of the Highlands and Islands of Scotland have peculiar claims on the British government. They have uniformly supplied a large proportion of the gallant men who have fought the battles of their country for a century past. The destitution they are suffering at present has been induced, moreover, in a great degree by a government measure in favour of the free-trade principle, the result of which was the immediate and entire destruction of their only manufacture—

that of kelp. They are a frugal and industrious people,—eminently virtuous and religious; and I need scarcely state, that whether as agricultural labourers or as shepherds, they would be peculiarly welcome, and would be sure to find immediate employment and sufficient subsistence in New South Wales. In short, that colony could very easily find room for not fewer than from five to ten thousand Highlanders, including men, women, and children, every year; and while I have already shown that the colonial land revenue would be amply sufficient to effect the entire emigration of even a much larger number of virtuous and industrious persons, without cost to the mother country; it is difficult to say whether Great Britain would be more benefited on the one hand by the gradual removal of such persons from a country that cannot possibly support one half their number, than the colony of New South Wales on the other, by their progressive settlement in its ample and fertile territory.

CHAPTER XII.

THE PRACTICABILITY OF EMPLOYING TRANSPORTED CONVICTS AT GOVERNMENT LABOUR EXCLUSIVELY, WITHOUT INCREASING THE EXPENSE OF TRANSPORTATION TO THE MOTHER COUNTRY.

SUPPOSING, therefore, that the assignment of convicts to private individuals should be discontinued, it remains to be ascertained in what manner all such convicts as might hereafter be transported to New South Wales from Great Britain and Ireland could be employed and maintained, without increasing the burdens of the mother country.

The progressive extension of the colony of New South Wales, and the rapid increase of its free population, which may now be reasonably anticipated from free immigration, will render a

great variety of internal improvements, of the character of public works, absolutely necessary for its general welfare and advancement. As soon, for example, as the colonial boundary shall be extended in a southerly direction to Bass's Straits, two great roads will be required in that part of the territory; viz., from the township of Yass, near the present limits of the colony in the south-western interior, to Port Philip, a distance of about four hundred miles; and from the township of Goulburn, in Argyle, one hundred and twenty miles from Sydney, to Twofold Bay, a distance of about two hundred and fifty miles. Roads along the eastern and southern coasts will also be required, and cross-roads to connect the settlements on the coast with those in the interior. On all these roads bridges will be required; and breakwaters, dikes, quays, embankments, and extensive excavations will be necessary to render the harbours on various parts of the coast safe and commodious, or to give the requisite value to allotments in the future towns in their immediate vicinity. For all these purposes a vast expenditure of labour will be required. In a colony, however, in which all such labour has hitherto been performed exclusively by convicts, it is not to be expected that free emigrants, even of the class of labourers, would willingly accept employment of

this kind, even for wages; especially while employment of a more eligible description could be obtained with facility. There would thus be a constant and a constantly increasing demand for convict labour for public works within the territory: and that demand would, I am confident, afford immediate employment for at least ten thousand convicts—a much larger number than the government would have to dispose of for a considerable time to come, even though the system of assignment should be immediately discontinued.

There is this peculiar advantage in employing convicts only in such public works as I have enumerated,—that the labour, if at all severe and incessant, as it ought unquestionably to be, is exceedingly irksome, and must necessarily be *felt* as a punishment. But such a mode of employing convicts has various other advantages to recommend it. It would enable the government to pursue one uniform system of procedure towards all convicts of the same degree of criminality in the eye of the law, whether in regard to food or clothing, labour or restraint, rewards or punishments. Efficient superintendence, solitary confinement by night, and regular religious instruction, could also be afforded under such a system of management, much more easily than under the assignment system; while exemplary

conduct during a certain term of years might still entitle the convict to a ticket of leave, and enable him to return eventually to society.

As public works of the descriptions I have specified are at present urgently required in New South Wales; and as the colonial revenue, which has hitherto kept pace with the annual increase of the population and the progressive development of the resources of the colony, is fully adequate to meet the whole cost of such works;—I see no reason why a debtor and creditor account should not be kept for the labour expended on such works, on the part of the superintendent of convicts, acting on behalf of the mother country on the one hand, and of the colonial government on the other.

There would be no difficulty, for instance, in estimating the value of the labour performed by convicts in the construction or repairing of roads, or in any of the other public works to which convict labour might be applied in New South Wales; and there would thus be ample means of striking a balance between the colony and the mother country. The maintenance of a convict employed at the public works costs the colonial government at present £9. 9*s*. 10½*d*. per annum; and if the value of the convict's labour for a whole twelvemonth should not greatly exceed that

amount, under the proposed arrangement, the fault would be attributable solely to inefficient superintendence.*

There is a second mode of employing convict labour in the territory of New South Wales, which the rapid extension of the colony, and the prospect of a greatly increased immigration, under the land-selling system, would enable the colonial government to have recourse to with much benefit to the community, and which would ensure the ultimate repayment of the whole cost of the maintenance of the convicts so employed. There are various navigable rivers on the east coast of New Holland, from Port Macquarie to the southern tropic; on the banks of which free and flourishing settlements will eventually be formed, and various branches of cultivation, for which the climate of the settled districts of the colony is unsuitable, pursued with advantage. Now it would greatly

* In the year 1831, when beef cost only three farthings, and bread a penny per pound, the whole cost of the maintenance of a convict at government labour in New South Wales did not amount to more than £7. 0*s*. 3½*d*. per annum. Beef and bread were unusually high in the year 1835, for which year the cost mentioned in the text is given. I am confident that £8 would cover the whole outlay for each convict's maintenance for a series of years, if the number employed at the public works should be considerable.

facilitate the formation of such settlements, and diminish the hardships of the first free settlers, if the government were to prepare the way for settlers of this kind by convict labour. Agricultural emigrants from Great Britain and Ireland would be apt to sink into despondency, if they found, on arriving in the colony, with the prospect of being speedily established in towns and agricultural settlements, that they had to form their town out of a dense forest, and to cut down whole acres of hard timber ere they could turn up a rood of land. But if the site of the future town should be duly ascertained, surveyed, and cleared; if streets should be laid out and formed, and a few buildings of permanent utility to the colonial government erected; if roads should be constructed to the more important localities in its immediate neighbourhood, and suitable tracts of land divided into small farms, having each a certain proportion of its whole extent cleared by convict labour, previous to its occupation; an agricultural settlement might be formed by a free emigrant population imported from the mother country—from the Highlands and Islands of Scotland, for instance, —and a town established at once. And if both town allotments and farms of this kind should be let at a moderate rental for a certain term of years to the first occupants, with liberty to purchase at

a certain fixed price before its expiration, the government would eventually, and at no distant period, be reimbursed for all their outlay in improvements, in addition to the payment of the original value of the land, while the settlers would experience comparatively little of the real hardship of settling in a forest. Labour of this kind is highly suitable for convicts undergoing penal discipline—much more so indeed than agriculture. Besides, on obtaining their freedom or tickets of leave, convicts, who had been trained to this species of labour in government employ, would betake themselves to such labour for hire, from habit as well as from necessity, and would thus become useful pioneers of civilization and improvement. At Moreton Bay, between the twenty-seventh and twenty-eighth parallels of south latitude, there has been a penal settlement established for more than ten years past. I should be sorry to say that the convicts at that settlement have not been usefully employed during that long period in growing wheat and maize, sweet potatoes and tobacco; but as they have cleared but a very small extent of land, and done comparatively little towards fitting the settlement for being eventually converted into a free settlement, I am persuaded that if their labour had been employed for these objects exclusively, it would have served

much better for all purposes of penal discipline, and turned eventually to much better account both to the government and to the public. Why, there are perhaps fifty localities on the Brisbane River, and the other two large rivers that empty themselves into Moreton Bay, highly eligible for towns and agricultural settlements; and if the convicts at that settlement had been employed in clearing the way for the formation of such towns and settlements in these localities, the value of the land would have been prodigiously enhanced to the government, and a free emigrant population, of many thousand souls, might have been introduced into it, direct from the mother country, and settled comfortably, first as tenants, and afterwards as proprietors in the course of a very few years. But ignorance, incapacity, and mismanagement have too frequently been the presiding spirits, wherever the employment of convict labour has been concerned in the Australian colonies. I have even been told, on unquestionable authority, that the commandant at a penal settlement in Van Dieman's Land, who had been asking directions at head quarters for the employment of the convicts under his charge, was actually desired, in a letter addressed to him on the subject by authority, to make them dig two deep pits at a considerable distance from each other, and then fill

up each of these pits with the stuff that had come out of the other!—And this in a country where roads and bridges are required in every direction, and where the agricultural emigrant is often obliged to cut down an acre of standing timber as hard as mahogany, ere he can grow an acre of corn! In short, if the Land Companies of the British North American provinces can derive large profits from the greatly increased value of particular tracts of land, by constructing roads and bridges along their whole extent, and laying off eligible sites for towns and villages, before selling them in lots at several years' credit to emigrants of the humbler classes from the mother country,—why should the British government, which has the absolute command of so much convict labour in New South Wales, not do something of the same kind in that colony, now that the revenue derivable from the sale of its waste land can enable either the government or private individuals to convey whole shoals of the very same class of emigrants, free of all cost to themselves, to the shores of New Holland? A process of this kind would render the transportation system really subservient to colonization, while it would speedily establish along the coasts of Australia an industrious and virtuous population; whose characters and example would prove conducive in

the highest degree to the reformation of the convicts, and render the continuance of transportation a blessing to the empire, rather than a curse. Why, a very small portion of the convict labour, which has been absolutely thrown away at the penal settlement of Moreton Bay during the last ten years, would have been sufficient to have effected the immediate settlement of at least ten thousand of the virtuous and industrious, but unemployed and starving poor of the Highlands and Islands of Scotland, in that most promising locality. And if such a population were carried out passage-free, which it is evident can now be effected without cost to any party, to be settled along with their ministers and schoolmasters along the fertile banks of a noble river, and supplied with provisions on credit from the king's stores for six months or thereabouts, will any man suppose that they would not willingly pay a rent for their little farms till they could afford to purchase them, or that they would not speedily prove a source of revenue and of national strength, instead of being, as at present, a serious burden to the state?

The employment of convict labour in the two modes I have suggested,—1st, on public works within the present colonial boundary, and, 2nd, in preparing the way for the formation of new settlements to the northward, would, I am confident,

infallibly ensure to the mother country ample and speedy repayment for every farthing of outlay, in the way of superintendence, maintenance, &c., provided a judicious system of management should be devised and enforced for the future. For in regard to the latter of these modes of employing convict labour; as the increase of value, of which property is susceptible in a new country, from the mere increase of population, is incredible in England; it is fully in the power of the mother country, by taking a judicious advantage of this fact, to repay herself eventually for all her outlay in the maintenance of such portion of her convicts as should be employed in clearing the way for the progressive settlement of a free emigrant population. Besides, the severity of the labour, and the hardships to be otherwise encountered by the convict, might, by these different sorts of employment, be graduated in some measure according to the degree of his criminality; while, in the event of his obtaining conditional freedom, he might nevertheless be confined to a settlement or district, in which, ardent spirits being prohibited, and other unnecessary indulgences withheld, the probability of his ultimate reformation would be tenfold greater than in the present settlements of New South Wales.

Indeed, I would consider it one of the most im-

portant objects to have in view, in the formation and occupation of new settlements to the northward, to make provision for the future location of emancipated convicts, in localities or districts where they would not be exposed to the manifold temptations with which persons of this class are at present infallibly beset in New South Wales and Van Dieman's Land, and where their power to exert a demoralizing influence on the sound portion of the community would be correspondingly diminished. The convict, for instance, whom it would be impolitic in the last degree to let loose upon society, within the present limits of New South Wales, might nevertheless be entrusted with his freedom in perfect safety, in a new settlement differently constituted from the first, in which the stimulus to reputable conduct would be strong on the one hand, and the check on his criminal propensities powerfully operative on the other.

CHAPTER XIII.

ILLUSTRATION OF THE FACILITY WITH WHICH A LARGE NUMBER OF CONVICTS COULD BE PERMANENTLY AND PROFITABLY EMPLOYED IN FORMING LOCATIONS FOR FREE EMIGRANT SETTLERS.

So long ago as the year 1817, the Right Honourable Earl Bathurst, who had then been but recently appointed principal Secretary of State for the Colonies, appears to have come to the conclusion, that some change was requisite in the mode of distributing and employing the convicts in New South Wales, and that the formation of other penal settlements on different parts of the coast had become necessary. The following judicious sentiments on that subject are extracted from his Lordship's letter to Lord Viscount Sidmouth, of date, "Downing Street, 23d April,

1817," recommending the appointment of a Commission of Inquiry to proceed to the col ny and to ascertain its general condition.

"I have for some time past had under consideration the present state of the settlements in New South Wales, principally with a view of satisfying myself *whether they are now calculated to answer the object for which they were originally established, or whether it might not be expedient to introduce some alteration in the existing system.*

"Until a recent period, the transportation of offenders to New South Wales appears to have answered, in a great degree, the ends for the attainment of which it was adopted. * * * So long as the colony was principally inhabited by convicts, and but little advanced in cultivation, the strictness of the police regulations, and the constant labour, under due restriction, to which it was then possible to subject the convict, rendered transportation, as a punishment, *an object of the greatest apprehension to those who looked upon strict discipline and regular labour as the most severe and least tolerable of evils.*

"It was not long, however, before the settlements were found to hold out to many individuals inducements to become cultivators; and thirty years' experience of the climate and fertility of the soil, has, for some time past, rendered a per-

mission to settle in New South Wales an object of anxious solicitude to all who were desirous of leaving their native country, and had capital to apply to the improvement of land. This, together with the number of convicts, who after the expiration of their sentences remain with their respective families growing up under them, has so increased the population of free settlers, that the prosperity of the settlement, as a colony, has proportionally advanced; and hopes may reasonably be entertained of its becoming, at no distant period, a valuable possession of the Crown. *It is this very circumstance which appears to me to render it less fit for the object of its original institution: nor can I conceal from myself that transportation to New South Wales is becoming neither an object of apprehension here, nor the means of reformation in the settlement itself; and that the settlement must be either placed upon a footing that shall render it possible to enforce, with respect to all the convicts, strict discipline, regular labour, and constant superintendence; or the system of unlimited transportation to New South Wales must be abandoned.*"

In his Lordship's instructions to Mr. Commissioner Bigge, of date, "Downing-street, 6th January, 1819," he developes more particularly his views on the subject of transportation to New South Wales.

"I deem it necessary to premise," observes his Lordship, "that in any opinion you may be led to form with respect to any change in the existing regulation of the colony, *you must always bear in mind the possibility of an abandonmnt of the present system of transportation, so far as regards the existing settlement;* and must, therefore, in recommending any measures for adoption, carefully distinguish how far you consider them applicable to the settlements in their actual state, or only to that in which they would be placed in the event of the convict part of the population being henceforth diverted to other stations.

"Should it appear to you, as I have too much reason to apprehend will be the result, that the present settlements are not capable of undergoing any efficient change, the next object for your consideration will be the expediency of gradually abandoning them altogether as receptacles for convicts; *and forming on other parts of the coast, or in the interior of the country, district establishments, exclusively for the reception and proper employment of the convicts who may hereafter be sent out. From such a measure it is obvious that many advantages must result. It would effectually separate the convict from the free population: the labour of forming a new settlement would afford constant means of employment, and that of a severe descrip-*

tion. By forming more than one of such separate establishments, the means of classifying the offenders, according to the degrees of crime, would be facilitated, and that salutary apprehension of the punishment revived which can alone make it available for the grave offences to which it is at present applied."

In accordance with these suggestions, Mr. Commissioner Bigge, coinciding entirely with Earl Bathurst, as to the propriety of removing a large number of the convicts from the existing settlements in New South Wales, recommended the progressive establishment of three new settlements to the northward of Sydney; viz. at Moreton Bay, Port Curtis, and Port Bowen; the last of which lies within the southern tropic, in lat. 22° 28′ south. Orders to that effect were accordingly transmitted to Sir Thomas Brisbane, governor of New South Wales, in the year 1823; and during the following year an expedition was fitted out by His Excellency's orders, to ascertain the comparative advantages of these localities. The result of this expedition was the discovery of the Brisbane river, one of the largest on the east coast of New Holland, which empties itself into the extensive inlet of Moreton Bay in lat. 27½° south. The great importance of this discovery, and the vast extent of available

land which it opened up for future settlement and cultivation, having rendered the examination of the other localities above-mentioned unnecessary, a new settlement was immediately formed at Moreton Bay, pursuant to Earl Bathurst's directions. That settlement has hitherto been a penal settlement, intended exclusively for the reception and employment of convicts re-transported from New South Wales. For some time after its formation, the number of convicts at the settlement of Moreton Bay was very considerable; but another penal settlement having been subsequently formed at Norfolk Island, and the government having found it inexpedient to incur the expense of more than one settlement of that description, the practice of re-transporting criminals to Moreton Bay was afterwards discontinued; and orders were eventually forwarded to the present governor, by the Secretary of State for the Colonies, for its entire abandonment. It is probable that His Excellency Sir Richard Bourke has represented to the authorities in Downing-street the inexpediency of such a measure, which indeed would have implied the absolute loss of the whole expenditure which had been already incurred, together with all the improvements which had been effected at Moreton Bay; for although the number of the convicts at that settlement has been progressively

reduced, it is still kept up; the number of convicts at the settlement being, by the last accounts, 293 male and 60 female.

The improvements effected at Moreton Bay consist in the erection of certain buildings, most of which will, doubtless, be useful for some purpose or other, should the settlement be thrown open to free emigration; and in the clearing and cultivation of land. But as penal settlements in New South Wales have hitherto been conducted without any view to their ultimate destination, as localities for the future establishment of free emigrants; and as there could be no apparent necessity for bringing a large extent of land into cultivation at such settlements; the real value of the improvements of all kinds effected by means of convict labour at Moreton Bay would probably not amount to more than a tenth or perhaps rather a twentieth part of its actual cost to the mother country, if the property so improved were to be brought to the hammer. And so long as penal settlements are conducted on the same principle, they will be equally costly and unprofitable.

The results of the land-selling system, however, even at the present moment, would enable His Majesty's government to maintain the settlement of Moreton Bay, and thereby to turn the labour expended in that vicinity for the last

twelve years to immediate account, if not so as to realize the full amount of its actual cost, at least to preclude the possibility of incurring so enormous a loss as would necessarily be implied in its entire abandonment; while a settlement, hitherto exclusively penal in its character and exceedingly expensive to the mother country, could be transformed forthwith into a free and flourishing settlement, affording the government the means of permanent and profitable employment for any number of convicts for the future.

So long as the system of granting land in the Australian colonies was continued, it was the policy of the British government to encourage the emigration of capitalists only to these colonies, i. e., of persons who could afford to take the convicts off their hands, and to employ them for their own advantage. The results of this system we have already seen in the present condition of the colony, as to the moral character of its anomalous population. But the new system, which is just coming into operation, will enable the government to *create* a class of capitalists in the colony, who will afford permanent and profitable employment for the convicts, and eventually relieve the government of the whole cost of their maintenance without setting them loose in any

degree from the salutary restraints and inflictions of penal discipline.

Let the settlement of Moreton Bay, therefore, be immediately thrown open to free emigration, under the following restrictions; viz., that no convicts shall be assigned to private individuals, and no ardent spirits be allowed either to be imported or manufactured in that settlement; and let whatever convicts it may be expedient to employ in future in that part of the territory, be employed exclusively in clearing land for free settlers, and in such public works as the formation of roads, &c. Let a portion, moreover, of the land-revenue of the colony, which is at present rapidly accumulating in the colonial treasury-chest, be employed forthwith in carrying out free emigrants of the class of farm-labourers, mechanics, &c. to be settled at Moreton Bay, having a clergyman and schoolmaster for each hundred families; and let these families be settled on the land already cleared by the government, the said land to be divided for that purpose into small farms of perhaps twenty acres each; the settler engaging to pay the estimated price of his farm by instalments, bearing interest after the first year, in five or six years. And the convicts retained at the settlement being employed in the mean time in clearing

land for additional emigrants, in the proportion of ten acres, or thereabouts, for each farm of twenty to fifty acres, let such emigrants be carried out to occupy these farms as fast as they can be got ready for their reception; the emigrant settler engaging to pay a certain fixed price per acre for the whole of his land, together with the stipulated additional price for the portion cleared, on the conditions above-mentioned.

At the commencement of the year 1835, the amount of the balance of unappropriated land-revenue in the treasury-chest of New South Wales, including £10,000 which had been advanced on loan to the deputy commissary-general, was £52,521. 16*s.* 5½*d.*, which, added to the amount received for land sold up to the 30th of June, 1836, made the whole amount up to that period £193,619. 6*s.* 7½*d.* Of that amount not more than £8663 had been paid for the passage of free emigrants during the year 1835, while about £30,000 additional had been appropriated by the colonial government for paying the passage of additional emigrants to be sent for by the colonists during the year 1836. At all events, it is unquestionable, that by the first of January, 1837, there would be not less than £150,000 of unappropriated land-revenue in the colonial treasury-chest. If, therefore, only £40,000 of that amount should be appropriated

forthwith in carrying out a thousand virtuous and industrious families to Moreton Bay, including a fair proportion of children, with a clergyman and schoolmaster for each hundred families, ten parishes would be formed and settled in that district in the course, perhaps, of twelve or eighteen months, not only with every prospect of success to the free emigrants, but with every prospect of exerting such a powerful moral influence on the convict population of the district, as has never yet been exerted on that class of the inhabitants of the Australian colonies.

As there are three parties that would be differently affected by such an arrangement, it may not be out of place to form an estimate of its probable bearings on each of them ; I mean the emigrants themselves, the government, and the convicts.

In regard to the free emigrants, the climate of Moreton Bay, though somewhat hotter than that of Sydney, is equally salubrious ; while the banks of the Brisbane river, and of the other two navigable streams that empty themselves into the Bay, together with the upland interior, present a vast extent of land of the very first quality, sufficient, at all events, to afford eligible localities for at least ten thousand families. Wheat grows sufficiently well on the uplands at Moreton Bay, but maize, or

Indian corn, is a much more certain crop on the low grounds ; the produce of the latter species of grain being from 60 to 100 bushels per acre. Indian corn is little used as an article of food for men in New South Wales, although it forms a palatable diet, and constitutes a principal part of the sustenance of the virtuous peasantry of New England: it is of great value, however, in the colony for the rearing of all sorts of domestic stock, such as pigs, poultry, &c. The sweet potato, which also forms a palatable food for man, is wonderfully prolific at Moreton Bay; and arrow-root of the finest quality has been grown in the government-garden at Brisbane river, at the rate of a ton per acre. The vine, the peach, the pine-apple, the orange, the pomegranate, the banana, the guava, the sugar-cane, the tobacco-plant, the coffee and cotton-bearing shrubs, and indeed, all sorts of semi-tropical fruits and productions, grow luxuriantly at Moreton Bay; while the climate would admit of various important branches of cultivation that have hitherto been untried in New South Wales. In short, with ten acres of cleared land to begin upon, and rations for six or eight months, to be repaid within a given period, an agricultural labourer from Great Britain or Ireland would have no difficulty in paying for his land in the course of a very few years, and in

making his family comfortable and independent for life ; for, as the emigrants would of course be all settled on the banks of the Brisbane river in the first instance, steam communication with Sydney, which would be established forthwith as a matter of course, would supply them with a ready market for all their surplus produce, whether grain, fruit, pigs, or poultry. And if each detachment of a hundred families should contain such artisans and other operatives as would be required in such a locality, they would have all the more common appliances of civilization at command ; while the clergyman and the schoolmaster, forming a necessary part of their parochial establishment, would, in all probability, maintain in their full force and operation all the moral restraints of their native vicinage. In short, as far as the emigrants are concerned, the transition from the state of the humbler classes of society in the mother country would be most desirable, while the benefit to the whole colony of New South Wales would be incalculable.

In regard to the pecuniary and other bearings of such an arrangement upon the government, I would observe, that as the public faith has been virtually pledged for the appropriation of the whole amount of the land-revenue of New South Wales to the encouragement and promotion of

emigration; and, as it is evidently of the utmost consequence to the future welfare of that colony, as well as to the future working of the transportation system, as a species of punishment, that this pledge should be redeemed; it is undeniable, that the sooner any portion of the large balance at present remaining in the colonial treasury-chest can be appropriated in carrying out settlers to any part of the territory, the greater public benefit will accrue from the measure, and the greater probability will there be of rendering transportation really efficient as a punishment. Besides, overburdened as the mother country is at this moment in certain parts of the empire, with a superabundant and unemployed population calling loudly for succour, and looking to emigration as the only source of permanent relief, the proposed appropriation of a part of the colonial land-revenue, in carrying out a considerable number of emigrants to a locality so well adapted for their immediate settlement as Moreton Bay, would evidently be not less beneficial to the mother country than to the colony. Moreover, by the arrangement proposed, the government would have a fair price for their waste land, and a fair equivalent for the convict labour employed in clearing portions of it for free settlers: their security for payment would not only be the

land itself, of which the market value would immediately be doubled by being settled with a free emigrant population; but the moral character of that population itself, headed as it would be in every instance by a clergyman and schoolmaster, both dependent in some measure for their maintenance upon the government, and consequently directly interested in seeing the demands of the government duly met by their people. Supposing that each farm should average thirty acres, estimated at seven shillings and sixpence per acre, and that the price of clearing ten acres for each settler should be estimated at £3 to £4 per acre (the price for clearing heavily-timbered land within the colony); the debt of each settler, on taking possession of his land, would be £46. 5*s*., and the whole debt of each parish or settlement about £4,600. Now, from what I know of the colony of New South Wales, and of the facilities which it holds forth to virtuous and industrious persons of the humbler classes of society, I am confident that a debt of this amount could be cleared off with the utmost facility, by a virtuous population of a hundred families, in two or three years. The government would therefore have good security for the repayment of the whole amount expended on each settlement in convict labour, as well as for the payment of the estimated value of

the waste land ; especially as the employment of a large number of convicts in the district would enable the government to receive a considerable portion of the payment in produce.

In regard to the convicts, the sort of labour in which they would thus be engaged, in clearing land for the settlement of free emigrants, and in forming roads from one settlement to another, would combine all the requisites which Earl Bathurst so judiciously establishes as indispensably necessary in a system of management for transported criminals, by affording the means of enforcing " strict discipline, regular labour of a severe description, and constant superintendence." Besides, if transportation should be restricted in future to convicts under sentence for fourteen years or for life, and if the present ticket of leave system, by which a convict for these periods respectively is allowed conditional freedom within a certain district at the end of six or eight years,— if this system should still be continued ; the convict, who had been constantly employed for either of these long periods in labour of this description, would naturally be induced, on the attainment of his conditional freedom, to set up for himself as a free labourer in the district in that particular line ; in which there will always be a great demand for labour in the colony. He would be able, for instance, to

contract with the free settler of the description above-mentioned, having ten acres of cleared land on his forty or fifty acre farm, for the clearing of an additional portion at the usual price per acre. He would be able also to contract for fencing, cutting posts and rails, and putting them up, and for the erection of barns or other out-buildings. He would be able to earn an honest livelihood by manufacturing and selling shingles, trenails, sawn or split timber to the settlers or to the masters of coasting vessels.* In short, after six or eight years' apprenticeship, the convict would become a useful labourer of the class most wanted in agricultural districts in a new country; or, if he preferred hiring himself as an agricultural labourer, he would be sure to find a ready demand for his labour among the free settlers. At the same time, being debarred from spending the profits of his labour at the public-house, on the supposition of an entire prohibition of the importation or manufacture of ardent spirits, he would be rescued from that gulf of perdition into which the ticket of leave holder, or emancipated convict, in the present settlements of New South Wales, almost uni-

* These operations might be combined with the clearing of land by the government, and might thus be made, especially in a district rapidly settling, to contribute considerably towards the maintenance of the convicts.

formly plunges; and by a sort of necessity arising out of his peculiar circumstances, rather than from personal inclination, he would eventually be led to attach himself to one or other of the parishes in his district, either as a tenant or a proprietor of land. He would thus be brought within the direct and salutary influence of correct moral example and sound religious instruction; the result of which on his whole character and conduct, would, I am confident, be, in the great majority of instances, gratifying in the extreme. In short, the convict would be the greatest gainer of all, under the proposed new system of management; in being preserved, on the one hand, from numberless and strong temptations, and in being strongly stimulated, on the other, to industry and virtue. Transportation would thus be a punishment in reality, and would be found sufficiently formidable to deter many from crime; while it would prove subservient in the highest degree to extensive colonization, and to the establishment of a moral influence of incalculable value for promoting the ultimate reformation of transported criminals. It is scarcely necessary to add, that in a community constituted in this way, there would be little danger of the emancipated convict, who had eventually become a landholder, insinuating him-

self into the jury-box, or petitioning for the elective franchise. These anomalies of the New South Wales political system would be unheard of under a different and *rational* system of management. The emancipated convict would know his place in society, and would keep it; and would not require to be repressed.

In short, the main points of difference between the system of management recommended for the future, and the one hitherto in practice, are,—

1st, That during the period of their penal servitude, the convicts are, under the present system, dispersed over the territory in the service of private individuals;—a mode of employment, which relieves them in great measure, if not entirely, from that "strict discipline, regular and severe labour, and constant superintendence," to which they would necessarily be subjected under the system of management proposed for the future: and,

2nd, That on their obtaining tickets of leave, or conditional freedom, the convicts are at present allowed and encouraged to concentrate themselves in towns and villages, in which the temptations to drunkenness and every other species of dissipation are almost irresistible; whereas, under the proposed system, they would be dispersed over the

territory, and attached to free settlements, in which such indulgences would neither be tolerated nor procurable.

In other words, the principles of the present system are, "dispersion and inefficient discipline, or rather, no discipline at all, for the convicts; concentration and unbridled licentiousness for all ticket of leave men and convicts conditionally free:" the principles of the system proposed are, "concentration and strict discipline for the convicts; dispersion, and restraint, and good example, for all ticket of leave men and convicts conditionally free." Of course, no person of common understanding will hesitate for a moment as to which of these systems is to be preferred.

I am quite aware that the sort of plebeian emigration I have recommended in the preceding pages, will scarcely accord with the views of certain Utopian speculators, of whom a whole host has recently been called into existence by the South Australia scheme; and who, it seems, conceive that a colonial settlement cannot be successfully formed without a sprinkling of aristocracy, i. e. without representatives of all the different classes of society in the mother country. It must be borne in mind, however, that the successful establishment of a few such communities of virtuous and industrious free emigrant *agricultural*

settlers, as I have described, on any part of the coast of New Holland, would eventually attract persons of a higher class, in the shape of merchants, graziers, wool-growers, professional men, together with a host of well-born and well-bred adventurers of all classes. But in proportion as the humbler class of settlers should succeed in establishing themselves in comfort and independence, they would be induced, under the guidance of their ministers and schoolmasters, to secure the benefits of a superior education for their children; and would thus be the means of eventually raising up an aristocracy of virtue and talent, of incomparably more value, in a convict colony, than an aristocracy of birth, or wealth, or employment. Of the reputable Scotch mechanics, whom I carried out to New South Wales in the year 1831, to erect the Australian College buildings, there were individuals who had only been earning from fourteen to sixteen shillings a week by their labour in Scotland, and who had been frequently out of employment. Of course, persons in such circumstances were unable to raise a single shilling to assist in paying the passage of their families out, and had consequently a debt, amounting, in some instances, to upwards of £50 to pay for their passage, from their labour in the colony. In the instances I allude to, these persons had not only discharged

the whole of that debt, but had purchased allotments of ground in the town of Sydney, where the minimum price of land is £1000 per acre, on which they had built two story stone-houses, and had sons at the Australian College, for whom they were actually paying £10 or £12 a year, in order to their receiving a liberal education, before I left the colony on my present voyage, i. e. in four years and a half after their arrival in New South Wales. Out of such materials, there will be no difficulty in eventually forming a colonial aristocracy.

The soil and climate of the country adjoining Moreton Bay would suggest the propriety of encouraging the settlement of emigrants from the continent of Europe, and especially from the German provinces on the Rhine, in that district; several of the productions which it is practicable to raise, in that part of the colonial territory, being altogether different from those to which persons trained to agricultural pursuits in the United Kingdom are at all accustomed. The practice of encouraging Protestants from the continent of Europe to settle in the British provinces of America, and to carry their industry and their arts along with them, was pursued systematically in the early part of the last century. General Oglethorpe, an extensive proprietor in the colony of

Georgia, in the reign of George the Second, obtained a grant from parliament of certain revenues arising from the confiscation of the property of certain French inhabitants of the island of St. Christopher in the West Indies, to assist in carrying out foreign Protestants to that colony; and the numerous and industrious German population in the United States at the present day, especially in the state of Pennsylvania, evinces the extent to which this principle was subsequently carried under the British colonial system in America. The practice, however, was of old standing in the colonial history of Britain.

"In the year 1708," observes Bishop Burnet, in his 'History of His Own Times,' "about fifty Palatines, (Germans from the Palatinate,) who were Lutherans, and were ruined, came over to England: these were so effectually recommended to Prince George's chaplain, that the Queen allowed them a shilling a day, *and took care to have them transported to the plantations:* they, ravished with this good reception, wrote over such an account of it, as occasioned a general disposition among all the poor of that country to come over in search of better fortunes; *and some of our merchants, who were concerned in the plantations, and knew the advantage of bringing over great numbers to people those desert countries,* encouraged

them with the promises of lands and settlements there. This being printed and spread through these parts, they came to Holland in great bodies: the Anabaptists there were particularly helpful to them, both in subsisting those in Holland, and in transporting them to England. Great numbers were sent to Ireland, *but most of them to the plantations in North America*, where it is believed their industry will quickly turn to a good account."—Burnet, VI. 33. 34. Oxford edition.

To facilitate arrangements of this kind, "An Act passed in this session," observes Bishop Burnet, under the year 1709, "that was much desired, and had been often attempted, but had been laid aside in so many former parliaments, that there were scarcely any hopes left to encourage a new attempt: *it was for naturalizing all foreign Protestants, upon their taking the oaths to the government, and their receiving the sacrament in any Protestant church.* The bill passed with very little opposition."—Burnet, v. 399.

Nearly a century after, President Jefferson, then Secretary of State for the United States of America, under the presidency of General Washington, proposes the following question to one of his correspondents: "Do you not think it would be expedient to take measures for importing a number of Germans and Highlanders?"—'Memoirs and Correspondence of President Jefferson.'

If such a measure would have been expedient in America, surely it would be tenfold more so in New South Wales!

Foreigners from the south of Europe would introduce the culture of the vine and the olive, would rear the silkworm, and prepare various sorts of dried fruit; for all of which occupations the soil and climate of Moreton Bay are peculiarly adapted, but which are all foreign to the habits and pursuits of the natives of the British isles. It should also be borne in mind, that from the mere difference of their language, emigrants from the continent of Europe, and especially from the German states, would be much less likely to be contaminated by association with the liberated or emancipated convicts, than natives of the mother country, while their virtuous example would be equally efficient in promoting the reformation of the convicts. It may be urged, indeed, that employing the funds of the colony for carrying out emigrants from the continent of Europe, instead of from Great Britain and Ireland, would be exceedingly unwise, as it would be diverting these funds from their proper object, and diminishing the means of carrying off the superabundant population of the United Kingdom. It is not proposed, however, to supersede emigration from Great Britain and Ireland, by recommending a limited emigration from the continent of Europe,

but to multiply the means of subsistence and employment for future British emigrants; to develope and to turn to immediate account the vast resources of the Australian territories; and eventually to extend the range of British commerce, by multiplying and increasing the colonial productions of the British empire. In fact, the colonial government are so sensible of the benefit to be derived from importations of this kind, that the same bounties are at present offered for agricultural or other labourers from the continent of Europe, as from Great Britain and Ireland.

CHAPTER XIV.

A THIRD MODE OF EMPLOYING CONVICTS AT GOVERNMENT LABOUR ON THE AUSTRALIAN CONTINENT.

FOLLOWING up the judicious suggestions of Earl Bathurst, and the recommendations of Mr. Commissioner Bigge, in as far at least as the principle involved in these suggestions and recommendations is concerned, I would earnestly recommend the formation of a distinct penal colony on the north coast of New Holland, as well for the immediate employment of such convicts as it might be expedient to remove from the districts, whether already settled or to be settled, within the present colonial territory; as for the eventual establishment of a free settlement of a somewhat different character from those recommended for the district of Moreton Bay. The particular object of such a settle-

ment, and its vast importance to Great Britain in a variety of lights, will appear in the sequel, and will doubtless suggest themselves to every intelligent reader whenever its proposed situation is indicated. That situation is Port Essington, a harbour second only to Port Jackson, and beyond all comparison the best yet discovered on the north coast of the Australian continent. It is situated at the northern extremity of the Coburg peninsula, to the westward of the Gulf of Carpentaria, and forms unquestionably one of the most commanding positions for a British settlement, whether in a commercial, in a political, or in a moral and religious light, on the face of the globe. Such a settlement, for example, would eventually command the commerce of the Great Eastern Archipelago, with its rich and varied productions, and its millions of inhabitants. It lies in the track of the Malay fleet that annually visits the northern coasts of New Holland, for *trepang*, or *bêche la mer*, as well as in the direct route of all vessels bound from the east coast of that continent, through Torres's Straits, to India or China. And, besides the likelihood of its speedily becoming a favourite and extensive emporium of trade for the Eastern world, a settlement in that locality would doubtless very soon attract numerous Hindoos, Chinese, and Cin-

galese, who would introduce the various arts and industry of their respective countries.

In the formation of such a settlement, several thousand convicts could be employed advantageously for a series of years — in the erection of public buildings, whether of immediate necessity or of permanent utility; in the clearing of land for gardens and for agricultural purposes suited to the soil and climate; in the formation of roads, tanks, piers, bridges, &c. The supplying of a settlement of this kind with the necessaries of life, by means of convict labour employed in the cultivation of land within the settlement itself, should not, I conceive, be attempted. These, with the exception of vegetables and the more common species of tropical fruits, which could be easily raised on the spot, would be procurable in the first instance at a much cheaper rate from New South Wales. Free emigrant British subjects, who might eventually settle in such a colony, would do so as merchants and capitalists, and not as cultivators of the soil on their own account, or by their own labour. A class of cultivators, with the advantage of a previous knowledge of all the processes of intertropical agriculture and a perfect adaptation to the climate, could be easily procured in the vicinity of Port Essington, (as is testified by

Captain Lawes, of His Majesty's ship Satellite,) of natives of the East; ticket of leave men and convicts, who had served out their term of sentence in the settlement, being allowed to settle in a similar capacity.

As a penal colony, a settlement in the proposed locality could scarcely be unsuccessful in the attainment of its object, provided the grand errors and gross mismanagement, that have hitherto proved causes of failure in New South Wales and Van Dieman's Land, were carefully guarded against, and the dear-bought experience of the past converted into a useful lesson for the future. But even if it should prove unsuccessful in that object, as is scarcely to be anticipated, the loss would be comparatively small; as a settlement at Port Essington would, doubtless, prove the foundation of another noble superstructure of British power, British commerce, and British influence in the East. Should it prove successful as a penal settlement, a series of settlements could be formed successively on the same model all along the north coast of New Holland, from Cape Yorke to Cape Maria Van Dieman, as well as within the gulf of Carpentaria; the penal character of such settlements to be temporary only, and to prepare the way for future colonies of freemen.

It may, doubtless, be urged, in reference to these suggestions, that two attempts have already been made within the last twelve years to colonize the north coast of New Holland; viz. at Melville Island and Raffles Bay; both of which, however, proved unsuccessful. But the former of these settlements was not more injudiciously formed than the latter was injudiciously abandoned. Melville Island—a low, swampy, and unhealthy situation, covered with thick jungle, surrounded by hostile natives, and withal quite out of the usual track of Malay vessels—proved to be quite unfit for the purposes contemplated; and the settlement was accordingly transferred eventually to Raffles Bay, on the eastern side of the Coburg peninsula, and within a few miles of the splendid harbour of Port Essington. In that locality the usual difficulties of a first settlement had already been happily surmounted; the salubrity of the climate and the adaptation of the soil for all tropical productions had been incontestably established; the surrounding tribes of natives, who were at first hostile, in consequence of acts of unwarrantable aggression, had been conciliated; a friendly intercourse had been opened with the Malay vessels that frequent the coast; and the prospects of the settlement generally were in the highest degree favourable; when orders from home, dic-

tated in consequence of accounts transmitted in the first moments of despondency, were received by way of New South Wales, for its immediate abandonment. It was consequently abandoned forthwith, with great loss to the British government, and with extreme reluctance on the part of those more immediately concerned in its welfare and advancement.

In addition to the other motives that should induce His Majesty's government to re-establish the settlement which was thus so unhappily given up, on the north coast of New Holland, I may observe, that Port Essington and Raffles Bay are in the immediate vicinity of Torres's Straits; a narrow passage, of which the navigation is unusually perilous, and which has hitherto proved a frequent source of shipwreck or disaster to British vessels. Besides, as hardships of various kinds, difficulties of unexpected magnitude, and disease in unlooked-for aspects, are almost uniformly experienced in the formation of new settlements, even in situations that are afterwards found remarkably salubrious, as was eminently the case even in New South Wales; it is surely fitting and reasonable, that these hardships, difficulties, and diseases should be encountered and surmounted by transported felons, rather than by a free emigrant population. In short, under a proper system of

management, and at a comparatively small expense to government, a line of penal settlements, and settlements of a mixed character, like the one proposed at Moreton Bay, might be formed successively along the east and north coasts of New Holland, from Port Macquarie to Dampier's Archipelago, to be successively converted into absolutely free colonies, in the order of their formation; ticket of leave men, and convicts who had earned conditional pardons by their good behaviour, to be left in the capacity of servants or labourers for hire, to the free emigrant population, on the abandonment of each establishment as a penal settlement.

By the three modes of employing convict labour, which I have thus described,—1st, on roads and other public works within the present colonial territory, or rather from Port Macquarie to Bass's Straits; 2nd, in clearing land, and making the other preparations requisite for the establishment of free emigrant settlers on the east coast of New Holland, from Port Macquarie to the southern tropic; and, 3rd, at one or more penal settlements on the north coast of the Australian continent;—there would not only be found sufficient employment for all the convicts that might be transported from Great Britain and Ireland for a century to come, without increasing the present

burdens of the mother country; but that employment would also afford the means of establishing a regular gradation of punishments, in some measure corresponding to the various degrees of criminality among the convicts; while it would enable the officers, who might in future be entrusted with their management, to enforce in all cases "strict discipline, incessant labour, and constant superintendence."

In alluding to the future employment of a large number of the convicts, who may hereafter be transported to New South Wales, in preparing the way for the establishment of free emigrant settlers of the humbler classes of society, I have hitherto confined my observations to the settlement of Moreton Bay, because that settlement has been already occupied as a penal settlement for twelve years past, and because it could therefore be converted into a free settlement immediately. There are various other localities, indeed, on the east coast, to the northward of Port Macquarie, which is situated on the thirty-first parallel of south latitude, that would probably be found equally eligible for such settlements, as well to the southward as to the northward of Moreton Bay; there being navigable rivers, with a large extent of eligible land on their banks, in both directions. It would not be expedient, however, for various

reasons, to attempt the formation of settlements of this kind to the southward of Port Macquarie, or on any part of the coast between that settlement and Bass's Straits. To the northward of Port Macquarie it would be comparatively easy to exclude ardent spirits from any settlement on the coast, but it would scarcely be possible to do so to the southward. Besides, the southern districts of the colony being the division of the territory to which the tide of voluntary emigration is now rapidly tending, while the open and pastoral character of the country in that direction would greatly facilitate the escape of convicts to the neighbouring colony of Southern Australia; it would be highly expedient to confine the experiment of employing convicts in preparing settlements for free emigrants to the northern parts of the territory.

CHAPTER XV.

OFFICERS REQUIRED FOR CARRYING INTO EFFECT THE NEW SYSTEM OF MANAGEMENT PROPOSED.

To carry into effect the changes suggested in the preceding chapters, as of indispensable necessity for ensuring the future efficiency of the transportation system in the Australian colonies, certain changes, I conceive, should also be effected forthwith in the constitution of the government of New South Wales. In the state of rapid extension and transition which that colony is now exhibiting, the affairs of its civil government, implying the furtherance and promotion of its general welfare and advancement as a British colony, would unquestionably require the undivided attention of any one individual. It is therefore highly ex-

pedient that the governor should in future be relieved of the duties more immediately connected with the administration and management of the transportation system, as it concerns the colony; and that an officer should be appointed direct from England, to undertake the whole management and control of the convicts of all classes throughout the territory. On the character and ability, the zeal, assiduity, and energy of that officer, the future efficiency of the transportation system, and the moral welfare of the colony of New South Wales, (as far as it is likely to be affected by the continuance of transportation,) would in great measure depend; and it is therefore unnecessary to observe, that the appointment would be one of unspeakable importance to the colonists of all classes, and would consequently demand the conscientious exercise of all the prudent discrimination of which His Majesty's ministers are capable. Such an officer should, by all means, be a civilian, of approved character, of much and tried experience in the management of criminals, and of a sufficiently enlarged and expansive mind to be capable of applying to that important branch of the public service all the improvements of the present enlightened age, whether derived from British, continental, or American experience. He should also be accom-

panied by a complete establishment of subordinate officers, of similar character, ability, and experience, from the mother country; and the salaries of all these officers should be paid directly by Great Britain; the colony paying only for the estimated value of the labour of the convicts,—which, if it greatly exceeded the cost of their maintenance, as it undoubtedly would under efficient management, would reimburse the mother country for such outlay, besides assisting in defraying that portion of the expense of the colonial police, which, under such an arrangement, would fall to be borne by the imperial parliament.

It is at present the office of the surveyor-general of New South Wales to mark out suitable lines of road wherever new roads are required in the territory; and it is the office of the director of public works both to furnish plans and estimates of all other public works or buildings required in the colony, and to superintend their execution; as it is the office of the colonial legislature and executive to determine what works are of most urgent necessity, and to supply the requisite funds for carrying them on. At present the roads of the colony are formed and repaired by convict labour, under the control and management of the surveyor-general's department; while public works,

such as the breakwater at Newcastle, are carried on by convict labourers, under the control and management of the officer in charge of that department. This, however, is evidently a most unwise arrangement; the duties of a surveyor-general, and of a director of public works, being totally different from those implied in the superintendence and management of convicts undergoing penal discipline. The consequences of such an arrangement are precisely what might be anticipated. The convicts at government labour are by no means under proper discipline, and are ever and anon breaking loose from their overseers, and committing depredations on the free inhabitants of their respective neighbourhoods; the quantum of labour they actually perform is proverbially insignificant as compared with their numbers; and the cost of their maintenance, and the consequent expense to the colonial government, are proportionably excessive. Under the proposed arrangement, however, the roads and other public works would still be carried on under the direction and inspection of the surveyor-general and the director of public works; but the convicts employed in these operations would be under the entire management and control of a third department, directly and exclusively responsible for their penal disci-

pline, and for their due and incessant employment.

It would argue no small degree of presumption on the part of the writer to attempt to lay down rules for the discipline and employment of the convicts, to be employed hereafter at government labour in New South Wales, in the event of the discontinuance of the practice of assignment, and the establishment of an entirely new system of management under officers of experience and ability from England. Neither is it at all necessary to point out the manner in which gradations of punishment could be established in the different modes of employing convict labour above-mentioned, commensurate with the different degrees of criminality in different convicts. These are matters of detail, in regard to which the proper course of procedure would immediately suggest itself to men of understanding and observation ; to whom it would consequently be sufficient to lay down for their general guidance Earl Bathurst's maxim, viz. " uniform and strict discipline, regular labour of a severe description, and constant superintendence."

By a uniform and steady adherence to this most judicious maxim, the following results might reasonably be anticipated :—

1st. There would be at least double the amount of labour performed in future by any given number of convicts; which would consequently reduce the expense of their future maintenance to one half its present amount.

2nd. The cost of the police and judicial establishments of the colony, which is at present enormous and annually increasing, would be progressively diminished; as the enforcement of strict discipline and vigilant superintendence would leave the convict comparatively few opportunities of committing fresh crimes or misdemeanours.

3rd. The demoralizing influence of convict principles and convict practice on the free portion of the colonial population would be checked for the future, and eventually completely neutralized; especially if at the same time there should also be a large annual influx of free emigrants, of virtuous character and industrious habits, from Great Britain and Ireland.

4th. The reformation of the convicts would be rapid and extensive; especially if it were made a part of a future system of management to grant tickets of leave and conditional pardons only for settlements (such as the one proposed to be established at Moreton Bay) in which they should be debarred the use of ardent spirits, after the attain-

ment of their conditional freedom ;—an arrangement, which could be effected with perfect facility, and with equal benefit to the convicts themselves and to the colony generally.

CHAPTER XVI.

THE EXTENT TO WHICH EMIGRATION TO NEW SOUTH WALES IS AT PRESENT PRACTICABLE UNDER THE LAND-SELLING SYSTEM, WITH REMARKS ON THE VALUE OF THAT SYSTEM TO THE MOTHER COUNTRY AS WELL AS TO THE COLONY.

From the statements and observations contained in the preceding chapters, it will doubtless be evident that the ability of the colony of New South Wales to afford constant employment for all the convict labour that may hereafter be procurable in the colony, together with the means of reformation for all such convicts as may hereafter receive tickets of leave or conditional freedom, will depend in great measure, if not entirely, on the due encouragement and promotion of emigration; and, as the annual introduction of a large number

of virtuous and industrious families and individuals into the colonial territory, will be indispensably necessary, to counteract the evil influence and effects that have unhappily resulted from the mismanagement of the transportation system in times past; so will a greatly increased and well-selected emigration be equally necessary to counteract the natural influence and effects of that system, even under the best management, for the future. In such circumstances, the new arrangement of selling Crown land in the Australian colonies, and devoting the whole proceeds of such sales to the encouragement and promotion of emigration,—an arrangement, of which the results have already so greatly exceeded all previous expectation,—would seem to be a provision beneficently intended by Divine Providence for the recovery of the moral health of the body politic of these colonies, and for its future preservation. Indeed, it may be safely affirmed, that no other government, either in ancient or modern times, has ever had such ample means provided to its hand for the healing of the moral diseases of its people, as are at present possessed by the government of New South Wales; and correspondingly great and awful, therefore, will be the moral responsibility of those who shall in future be entrusted with the govern-

ment of that colony, if these means are not plied to the utmost.

After what has already been advanced, it is perhaps unnecessary to enlarge on the very unwise and unwarrantable mode in which the land fund of the Australian colonies has hitherto been appropriated,—under the authority of Boards and Agents in London, having no interest in its judicious appropriation, and no adequate knowledge of the subject,—in inundating the colonies with vice and misery, whether in the form of free emigrant females, conveyed in whole ship-loads to New South Wales and Van Dieman's Land, without friends and without natural protectors; or in that of free emigrant mechanics and agricultural labourers, collected by shipowners and shipbrokers, many of whom have proved equally destitute of moral character and of fitness for any useful employment. The cases of favourable exception (for they have been but exceptions in both of these classes of emigrants) have shown how much real benefit the colony would derive from an extensive and well-selected immigration; but the general result of the mode in which the immigration funds of New South Wales have been appropriated for the last few years, has at length induced the colonial government to dispense with the services of London Boards and Agents alto-

gether, and to appropriate the funds exclusively towards the immigration of families and individuals selected by the colonists themselves, or by agents duly appointed by them, and acting on their behalf.

Supposing therefore that a voluntary emigration of virtuous and industrious families and individuals is henceforth to take place to the territory of New South Wales, to the full extent to which the land revenue of that colony can be made available, it may not be out of place to es timate the future probable amount of that emigration, and the benefits which the land-selling system will thus be the means of securing both to the mother country and to the colony. The land revenue of New South Wales amounts at present to upwards of £100,000 per annum, but will probably be increased very shortly to double that amount. That revenue, it should be observed, however, is almost exclusively of colonial creation, upwards of nine-tenths of its whole amount being received for purchases of land and town allotments, made in extension of their former possessions, by residents of some standing in the colony, who have acquired the means of making such purchases chiefly by the rearing of sheep and the growth of wool. And it should also be borne in mind, that before the £100,000 has been paid into the colonial treasury

chest for the land so purchased, the carriage of the wool and other colonial produce, of which it has been the price, from New South Wales to London, has afforded profitable employment for six months to at least four British ships of 350 tons register, with crews of twenty men each. At the rate of £30 for each family, the amount of bounty recently fixed by the colonial executive, exclusive of children, the present colonial land revenue will pay for the annual emigration of three thousand three hundred families of farm labourers, shepherds, and mechanics, from Great Britain and Ireland. Now, at the rate of one hundred families for each ship, a number which would require a vessel of 500 tons, the conveyance of these families to their colonial destination will afford profitable employment for six months together to thirty-three first class British merchant-ships, having crews of twenty-five or thirty men each, entirely at the expense of the colony of New South Wales; the profits of the voyage, including the outfit and provisions, being exclusively appropriated by British merchants. As for the emigrants themselves, they consist of families and individuals, who, before leaving the mother country, are in all likelihood a dead weight on the community; as they can only obtain subsistence by elbowing out of employment other deserving individuals of the

same class, whose circumstances will consequently be greatly improved by their emigration; or by reducing the wages of labour generally below the proper standard for the comfortable subsistence and education of a virtuous family. In all these respects, therefore, the value of such a colony as New South Wales to the mother country, whether as a cheap and practicable outlet for her surplus labouring population, or as a source of profitable employment for her commercial navy, is evident and incalculable.

On their arrival in New South Wales, the emigrants will be employed for the most part as farm-servants, shepherds, overseers, handicraftsmen; and in any of these situations they will be able to live in the enjoyment of many of the comforts and conveniences of life, of which a large proportion of the industrious classes of society in England are deprived through sheer poverty. Their much higher rate of wages, and their other superior opportunities of accumulating property, will also enable them, if at all industrious and frugal, eventually to become proprietors of sheep and cattle, houses and land. They will thus materially augment the capital and the raw produce, as well as the population of the colony, and assist in developing its vast resources; while, besides consuming probably four times the amount of British

manufactures that labourers of a similar class can afford to purchase in the mother country, they will contribute to sustain the vast fabric of British commerce, by also paying for the freight of these manufactures from England in British vessels.

In a moral and religious light, the introduction of a numerous and virtuous free emigrant population into the colony of New South Wales, cannot fail to afford a highly gratifying prospect to all who are sincerely desirous of promoting the best interests of that important dependency of the empire. I acknowledge, indeed, that if things had continued to be carried on in the colony in the way in which they have hitherto been managed, the free emigrants themselves would have had but a sorry prospect for the future in regard to their own spiritual welfare, and the intellectual and moral improvement of their offspring: but now that every hundred free adults can obtain a salary of £100 per annum from the colonial government for the support of a clergyman of their own communion, in whatever part of the colony they may choose to settle, besides liberal assistance for the establishment of a school for their children, there is evidently much less to be feared in these important respects,—nay, there is every thing to be hoped for the future.

From the preceding enumeration of the benefits

that are likely to accrue, both to the mother country and to the colony of New South Wales, from the future and exclusive appropriation of the land-revenue of that colony towards the encouragement and promotion of emigration, it will be difficult to determine whether the mother country or the colony is likely to reap the greater advantage from that admirable arrangement. To Great Britain, whose ministers of state and parliamentary committees have, on the recurrence of every periodical return of difficulties and distress among her labouring population, arising from the want of food and from the want of employment, been holding endless consultations, accumulating volumes of evidence, and ever and anon devising ways and means of carrying off the surplus portion of that miserable population to a land of duly requited labour, and of abundance of the necessaries of life;—to Great Britain, so circumstanced, it cannot surely be a matter of indifference to find a revenue suddenly created for that very purpose, independently of her own internal taxation, in the woods and wilds of New Holland, —a revenue, moreover, annually increasing, and of which the very expenditure in this way ensures the constant and rapid increase. With such a system in actual operation, who can doubt the policy of the maxim of Napoleon,—"Ships, Colo-

nies, and Commerce,"—as it is thus the legitimate use of a well-regulated colony to afford profitable employment to numerous ships, and a powerful stimulus to commerce and manufactures?

In connexion with the subject of transportation, and the means of rendering that mode of punishment really efficient for the future, as well for the prevention of crime as for the reformation of criminals, the extension of colonization along the coasts of New Holland, both within and beyond the present limits of the colony of New South Wales, by means of an extensive emigration of virtuous and industrious families from the mother country, becomes a subject of national importance. For while it cannot be denied, that convicts undergoing their sentence of transportation could be employed most usefully for the public, in preparing new settlements for the reception of such emigrants, in the manner recommended at Moreton Bay; it must also be evident, that the progressive allocation of ticket of leave men, and convicts enjoying conditional pardons, in the immediate vicinity of well-regulated free settlements, affords the best prospect of their ultimate and entire reformation. In such settlements as might thus be formed progressively in ten thousand localities on the coasts of New Holland, persons of this class would find a high tone of

moral feeling generally prevalent, and the vices that uniformly distinguish a population of exclusively convict origin universally discouraged. They would see honest industry rewarded with comfortable circumstances and the prospect of independence; and they would be incited and encouraged to follow the good example held out to them on all hands, by being placed under the direct and salutary influence of pastoral superintendence. And surely a prospect of this kind, which, I am confident, from more than thirteen years' observation and experience in the colony of New South Wales, would be realized in ten thousand instances, under a judicious and well-regulated system of free emigration, is much more attractive to the eye of enlightened philanthropy, than the one which invariably presents itself in the writings of those, who, with comparatively little knowledge of the subject, affect to decry transportation as a species of punishment altogether—I mean, the penitentiary and the gibbet.

I have said that there are ten thousand localities along the coasts of New Holland, in which flourishing free settlements might be formed, by employing convict labour in the way I have recommended. Little as we know of the capabilities and resources of that continent, this at least can be affirmed with safety. And with a coast line

six times more extensive than that of the whole thirteen colonies that revolted from Great Britain on the declaration of American independence, and numerous harbours along that extensive line of coast, equal, if not superior, to any in North America; with a range of climate, and a fertile soil adequate to the production of all the products of American agriculture, in addition to its own peculiar and unrivalled production—fine wool; it is impossible to estimate the stimulus that would be given to the manufacturing industry and the commercial enterprise of Great Britain, by the rapid colonization of that continent with virtuous and industrious free emigrants from Great Britain and the continent of Europe. This I have shown sufficiently could be effected to a vast extent, through the mere appropriation of the colonial land-revenue to the encouragement and promotion of emigration, and without costing the mother country a single farthing. For within a period of time comparatively short, a population of entirely European origin, as numerous as that of the thirteen American colonies in the year 1776, might be successfully established on the continent and islands of Australasia; whose industry and enterprise would afford constant employment to thousands of British ships, and to tens of thousands of British sailors, artisans, merchants, and manu-

facturers. And although emancipated convicts and their children would doubtless be found everywhere in the Australian territories, they would nowhere constitute a separate and influential caste in society, like the present emancipists of New South Wales; but would rapidly disappear among the mass of virtuous and industrious inhabitants, as the waters of a river are lost insensibly in the ocean, or as the English convicts and their offspring were at last indistinguishably blended with the virtuous and industrious free emigrant population of Maryland and Virginia. At all events, there would be no such moral curse entailed even by the transportation system on the future population of the Australian colonies, as the existence of negro slavery has already entailed on the American republic.

From their central and highly favourable position on the surface of the globe, the Australian colonies, teeming as they are already with that spirit of enterprise and force of character which are so peculiarly the growth of Britain, cannot fail eventually to exert a powerful influence, either for good or for evil, on a large portion of the family of man. That influence is already felt, both for good and for evil, in the neighbouring islands of New Zealand, situated within six days' sail of Sydney, and containing a native population

of upwards of half a million of souls. It will ere long be felt over the ten thousand populous isles of the Western Pacific, as colonization extends to the northward on the Australian continent. It will at length pervade the whole Indian Archipelago—that vast ant-hill of nations,—and perhaps ultimately force open the iron gates of China and Japan, which, like those of the temple of Janus, are uniformly shut upon the European nations, even in the times of profoundest peace. And will his Majesty's government permit that influence to be any longer a curse to the nations of the eastern hemisphere, as it has hitherto most unquestionably been, from the manner in which the transportation system has been managed in the Australian colonies; especially when it is so fully in their power to render it a source of inestimable blessings, by making transportation the pioneer and precursor of advancing colonization? If the measures I have recommended for the future management and improvement of the transportation system had required a large expenditure of British money, or implied a large addition to the public burdens of the nation, I should have hesitated to propose them; but while I feel confident, from thirteen years' experience and observation, that the adoption of these measures would not only tend to diminish crime and to lessen

the expense of transportation, but afford positive relief to the mother country, by carrying off annually many thousands of her superabundant labouring population, and transforming them into purchasers of her manufactured produce instead of unprofitable consumers of her capital; I have no hesitation in earnestly urging their immediate adoption.

CONCLUSION.

The exclusive appropriation of the land-revenue of New South Wales, towards the encouragement and promotion of emigration, being a measure of such vast importance, as it will, doubtless, appear to the reader, from the preceding pages—both for ensuring the future efficiency of transportation as a species of punishment, and for promoting the moral and spiritual welfare of that colony;—it will scarcely be believed that any idea could possibly be entertained, either in England or in New South Wales, of devoting any portion of that revenue to any other purpose; especially after the faith of His Majesty's government had been virtually pledged for its exclusive appropriation towards that legitimate and important object. It is with extreme regret and disappointment, however, that I have to inform the reader, that during the very

short period in which the Right Hon. Mr. Spring Rice presided over the colonial department, it was suggested by that gentleman to the Lords of the Treasury, that a certain portion of the land-revenue of New South Wales should in future be appropriated towards the payment of the police establishment of the colony ; and this suggestion having accordingly been approved of by the Lords of the Treasury, it was recommended to the governor and council of New South Wales to make such appropriation forthwith. It was thus virtually enacted by the Secretary of State for the Colonies, that a large portion of that revenue, which had been unexpectedly and beneficently created, as if by the immediate interposition of the providence of God, for the counteraction of the enormous moral evils that had resulted from the past mismanagement of the transportation system in the Australian colonies, and for ensuring the moral welfare of these colonies in all time to come, through the annual importation of numerous industrious and virtuous free emigrant families and individuals from the mother country,—and to the exclusive application of which to that object of transcendent importance to their adopted country, the virtuous portion of the inhabitants of New South Wales were looking with intense anxiety and with the highest anticipations ;—it was thus, I

say, virtually enacted by the Secretary of State for the Colonies, that a large portion of the revenue, which had been so pledged and appropriated by his predecessors in office, should be applied towards the perpetual maintenance of the colony of New South Wales as a mere gaol and dunghill for the British empire!

Perceiving, with a sinking of spirits which I cannot well describe, the tendency of this most impolitic arrangement, and anticipating the use that would probably be made of the Secretary of State's license in regard to the land-revenues, by a body composed of such pliant materials as a legislative council, consisting chiefly of government officers holding their appointments at will; I considered it my duty to avail myself of the access, which I fortunately had at the moment, to the public press of the colony, to arouse the virtuous portion of its inhabitants to a due sense of the deep and irreparable injury they were about to sustain, in their best and dearest interests, through the forthcoming parricidal enactment. In this object I was happily by no means unsuccessful. The chord I had touched only required to be struck to produce a powerful vibration all over the colony; and a strong and numerously signed petition to the governor and council, from the respectable inhabitants of the colony, praying

that no part of the land-revenue should be applied to any other purpose than the importation of virtuous and industrious emigrants from the mother country, was the gratifying result.

It is unfortunately, however, no part of the duty of a colonial governor and council to sit in judgment on the expediency or the justice of the mandates of a Secretary of State. A few independent members of the colonial council remonstrated, and voted against the appropriation of any part of the colonial land-revenue towards the maintenance of the colonial police; but the government officers, and those who held it equally preposterous to have any opinion of their own, of course, *did as they were bid;* and the principle, which had been virtually established by Lord Viscount Goderich, and to which the reputable portion of the inhabitants of New South Wales were looking with intense anxiety for the moral renovation of their adopted country, viz. that the land-revenue should be appropriated exclusively towards the importation of virtuous and industrious free emigrants from the mother country, was forthwith set aside.*

* Lest the reader should suppose that it is my intention to attach any personal blame in this matter to the governor of New South Wales, it must be borne in mind, that that officer is appointed merely *to administer* the affairs of the colony

The appropriation from the land-revenue, which the Secretary of State for the Colonies had recommended and sanctioned, towards the maintenance of the colonial police, amounted to forty-five thousand pounds sterling. This amount had previously been paid chiefly by the mother

agreeably to the directions of his superior officer, the Secretary of State. Sir Richard Bourke has placed it on record in a dispatch to the Secretary of State, as his own private opinion, that the settlers would do much better without convicts altogether; or, in other words, that the present system of transportation should be discontinued: but the principle on which he was bound to act, was, that His Majesty's government did not intend to make any change in that system. With such an opinion on the subject of transportation, His Excellency must necessarily have been of opinion that it was expedient to apply the whole of the land-revenue of the colony for the encouragement and promotion of emigration; but the orders on which he was bound to act in that matter were, that a portion of that revenue was to be appropriated towards the maintenance of the colonial police. And although the governor is assisted in the administration of the affairs of the colony by a legislative council, it is too much, even for Credulity herself, to believe that that respectable body, composed as it is in great measure of government officers and a few easy-going gentlemen under the direct influence of the government, can possibly have a will of its own. A legislative body, composed of such materials, is the most anomalous that can possibly be constituted by associated man: it is a body without a soul, without an understanding, without a will.

country, on the ground of its being expended for the due control and custody of refractory convicts transported from Great Britain and Ireland; and the appropriation in question was ordered by the Right Honourable Secretary, under the idea that the ordinary revenue of the colony would be inadequate to meet so large an addition to its annual expenditure. Now supposing that this had actually been the case, it was most impolitic for the mother country to effect so paltry a saving on the annual expense of maintaining her unruly convicts beyond seas, at so prodigious an expense to the moral welfare of a flourishing colony, and at so great a loss to herself in a different respect: for the annual importation of three thousand additional free emigrants into New South Wales, which the misappropriated revenue could have effected, would not only have enabled the colony to meet the whole amount of its police expenditure at a much earlier period; but the very outlay of that revenue for such a purpose would have afforded a seasonable relief to the mother country, both by carrying off so large an additional number of her superabundant inhabitants of the labouring classes, and by giving profitable employment, for at least six months together, to at least fifteen or twenty of her ships.

So strong, however, was the demonstration of

public opinion on this important subject throughout the colony, that although the appropriation was voted in due form by the legislative council, it did not take place; the ordinary revenue of the colony for the years 1835 and 1836 being found sufficient to meet the whole amount of the additional charge for the maintenance of the colonial police establishment.

The principle, however, being once established, that the colonial land-revenue might be appropriated for other purposes than the one originally proposed; it was kept for some time *in retentis* by the colonial executive, to be exhibited and carried into operation on the first convenient opportunity. And, accordingly, when the estimates of the general expenditure of the colonial government for the year 1837 were laid before the council in the month of July last, the sum of £80,000 was included in the Ways and Means, as *the probable balance of revenue of Crown lands, after deducting the charges of immigration.* It is a maxim of the lawyers, *boni judicis est ampliare jurisdictionem:* of course, after the principle had been established that a portion of the land-revenue might be appropriated towards the maintenance of the colonial police, it was merely *a slight amplification of jurisdiction* to apply it in prospect to any purpose whatever.

As the present governor of New South Wales is generally understood to be a Whig, with a tendency to Radicalism in the matter of colonial church establishments; and as I have no hesitation in avowing my belief and conviction that such a modification of political opinions on the part of a governor is incomparably better for the good government of that colony than the absolute and unmixed Toryism of his predecessor, General Darling; the preceding remarks will, I trust, not be interpreted as a manifestation of that spirit of party which prevails in the colonies with perhaps greater bitterness than at home, and which subjects all the actions of political opponents to undistinguishing condemnation. My sole object in these pages is the moral renovation of my adopted country; and the policy I would reprobate and oppose to the utmost, is the policy of those only, who would either preclude or retard the accomplishment of that object of transcendent importance, or recklessly sacrifice it to others of temporary and inferior moment.

The estimated expenditure of the government of New South Wales, for the year 1837, is £240,673. 11*s*. 8½*d*. To meet that expenditure, there are Ways and Means, including the sum of £80,000, which is calculated as the probable balance of the revenue of Crown lands, after de-

ducting the charges of immigration, amounting to £364,545. 2*s*. 7*d*.

It is altogether foreign to my purpose to inquire whether the astonishing and unparalleled prosperity which this state of things indicates might not be greatly increased by a more judicious and economical expenditure of the colonial funds than has hitherto been exemplified, or is at present contemplated by the colonial legislature. It is equally foreign to my purpose to inquire whether a population of 80,000 souls, of whom 20,000 are virtually in a state of slavery to the rest of the community, can require an expenditure of £240,000 per annum, or £3 a head, for very indifferent government. It is not less foreign to my purpose to inquire whether, in a third or fourth-rate British colony, (I mean in regard to the amount of its free population,) and in a climate unequalled for its salubrity, there can be any necessity for such enormous salaries as are still given to the principal officers of the colony;—salaries, which, varying as they do from £1200 to £5000 a year, are not only exceedingly disproportioned to the particular services rendered, but calculated to generate a taste for extravagant expenditure, of the worst possible example to the colony. These questions, I repeat, are foreign to my purpose; but whenever the colonial govern-

ment shall bring forward a case of imagined necessity to authorize the application of a single farthing of the land-revenue to any other purpose than the one to which it was originally devoted, I mean the moral renovation of the country, they are questions which ought to be taken up and discussed dispassionately.

It is evident, however, that there will be no such case of alleged necessity during the year 1837; the estimated revenue for that year, which, in the present rapidly advancing condition of the colony, is always considerably under the amount actually realized, exceeding the estimated expenditure by £33,871. 10*s*. 10½*d*., *independently of the probable balance of the land-revenue altogether*. That balance arises from the demand for free labour in the colony being apparently below the existing means of supply; but this idea is altogether a fallacy, arising partly from a want of system and a want of energy on the part of the colonial executive, and partly from evident misconception in regard to the real interests of the colony, and the means it affords of rendering transportation really efficient in promoting the great ends of the imperial legislature. From evidence taken by a Committee of the Legislative Council of New South Wales, in regard to the actual demand for free labour in that colony

during the year 1835, it appeared that that demand was at least equal to the utmost ability of the colonial government to provide a supply by means of the land-revenue. But, instead of adopting the requisite means to ensure an adequate supply in such circumstances, the colonial government merely offered a certain bounty to such individual settlers as should import within a given period agricultural labourers, shepherds, mechanics, &c. of certain specified descriptions. But most of the colonial settlers, and especially those who are best able to give employment to persons of these descriptions, having been long resident in New South Wales, and having no means of inducing trust-worthy persons in the mother country to undertake the trouble and expense of selecting and forwarding to the colony suitable emigrants for the purposes for which they required their services, the government bounty was applied for by comparatively few of the colonial proprietors, in proportion to the actual demand for labour; and the probability is, that through the obvious impracticability of managing affairs of this kind merely by written communications from the extremity of the globe, the number imported will fall greatly short of the number for whom the bounty is actually pledged, while the expense to the settlers will greatly exceed the

amount of that bounty. It is in these circumstances that the home government are doubtless amused with the fallacy of a large annual balance of land-revenue in the treasury chest of New South Wales, over and above the whole expenditure required for supplying the whole existing demand for free labour in that colony. It is the bounden duty of the colonial government to see that there shall be no such balance in the colonial chest, and that every sixpence of the land-revenue be expended forthwith in importing virtuous and industrious free emigrants into the colonial territory. Nay, if money to the amount of several millions sterling could be borrowed at interest on the security of the land-revenue of New South Wales, for carrying out from Great Britain and Ireland, during the next five or six years, as many thousand free emigrants of the industrious classes of society, as could possibly be settled in any capacity in the colonial territory; it would be the wisest measure ever sanctioned by the British government in regard to the Australian colonies, and the most pregnant with blessings of incalculable value to the colony of New South Wales, as well as with important benefits to the empire: for in proportion as virtuous and industrious free emigrants are settled in that colony, will the evil effects that have already resulted

from the past mismanagement of the transportation system be neutralized, and the future efficiency of that species of punishment promoted and secured. By adopting the course I have recommended for this purpose, it is practicable for the British government to render the infliction of that punishment subservient in the highest degree to the progress of colonization on the Australian continent, and to the rapid increase of the commercial prosperity of the empire; while, on the other hand, it is equally practicable to render the progress of Australian colonization subservient in the same degree to the growth and establishment of that powerful moral influence which alone will secure the ultimate reformation of the criminal.

If His Majesty's government should refuse to listen to this voice from the wilderness of Australia, under the idea that the present system of management in regard to the disposal of transported criminals in New South Wales can be indefinitely continued, they will, in all likelihood, find themselves mistaken much sooner than they anticipate. The intolerable expense and the moral abominations of that preposterous system, both of which are increasing enormously every year, are already exciting general impatience and deep disgust among the reputable classes of colonial society; and if these classes, who are now rapidly

accumulating wealth, and acquiring the spirit of personal independence which wealth induces, should either find or fancy His Majesty's government indifferent to their moral welfare, and determined to maintain their adopted country as the mere dunghill of the empire, they will doubtless appeal directly to the nation by means of paid agents traversing the country, from the Land's End to the Orkneys, as was lately done with so powerful an effect by the enemies of negro slavery, and thereby arouse the people of Great Britain and Ireland to petition for the immediate discontinuance of transportation altogether.

Such a consummation would, in the present circumstances of the mother country, be calamitous in the extreme. The gradual accumulation of criminals in her prisons and penitentiaries, at the rate of five or six thousand annually; the enormous expense of their maintenance, and the unprofitableness of their labour; the contaminating influence of their society, and the hopelessness of their reform—would at length be felt as intolerable evils by the nation at large; and the formation of another penal colony in some other part of the world would be the ultimate result. And in what part of the globe, I ask, would the formation and maintenance of a new penal colony cost less than ten times the amount for which the present trans-

portation system could be effectually reformed, and indefinitely extended in the Australian territory?

I should be sorry to insinuate, however, that His Majesty's government could possibly be indifferent to the moral welfare of the colonists of Australia. There are positive proofs to the contrary in the liberal and enlightened measures, of which the Right Honourable the present Secretary of State for the Colonies has recently sanctioned the enactment in New South Wales, for ensuring the intellectual advancement of the colonists, by means of numerous and well-organized schools, and for promoting their moral and spiritual welfare through the regular dispensation of the ordinances of religion. But in the multiplicity of engagements that uniformly solicit the attention of the high officers of the Crown, it is possible that the moral welfare of the colonists of Australia, in as far as the bearing and operation of the transportation system are concerned, may have hitherto been overlooked or neglected. Besides, His Majesty's government have never yet had the whole case of the colonists, in reference to the transportation system, laid fairly before them; as is evident from the paltry amount and the inferior character of the information detailed in evidence before the parliamentary committee on secondary

punishments; and in consequence of this want of information, or rather of the abundance of information calculated to mislead, they have in great measure been drawing a bow at a venture, in transmitting orders or regulations for the guidance of the successive governors of New South Wales.*

* In the evidence of Mr. James Busby, the present British resident at New Zealand, before the parliamentary committee on secondary punishments, in the year 1831, the following passage occurs: viz.

"1335. What measures are taken as to the education of children born in the colony? Very ample provision is made for that; there are schools in almost every district; wherever there are a few families together, they endeavour to provide a schoolmaster of some sort or other.

"1336. At their own expense? Not altogether; partly by the government, partly by themselves. The ecclesiastical establishment is charged with that; and, in fact, *it has been by the exertions of the late and present archdeacons that so many schools have been established*, rather than by any desire on the part of the inhabitants of distant places, who are often very indifferent upon the subject.

"1337. Is it an easy thing for labourers to go to a place of worship on Sunday? There are a number of clergymen in the colony, and they perform service in various places; it is generally understood that persons who have convicts in their service ought to cause their attendance, if they are within three or four miles of the place where service is performed; in all these matters there is a want of efficiency in enforcing the

But the most important consideration of all is, that it has never been practicable for His Majesty's

regulations; the regulations are perhaps as good as possible, but the government have not the means of enforcing them properly.

"1338. Are there not places of worship within four or five miles? In many districts there are, but not every place; the people are scattered over an extent of many hundred miles. Where there are children at all, there is generally a number of people residing within a few miles of each other: it is only at the out-stations of the settlers, where none but working people are sent, that they have not the means of attending schools and divine service."

Now I refer it to any person at all acquainted with the state of New South Wales, in regard to the means of education and religious instruction, previous to the year 1831, whether there could possibly have been a more incorrect and unfounded representation of the actual condition of that colony in these important respects, or one more directly calculated to mislead His Majesty's government, than this precious evidence presents. No doubt, Mr. Busby was not upon oath to tell *the whole truth, and nothing but the truth!* No doubt, it was natural for him, as an Episcopalianized Scotch Presbyterian hunting for office, to compliment "the late and present archdeacons" for their alleged exertions! But Mr. B. could not be ignorant, that at the very moment he was giving his evidence, the colony of New South Wales was a perfect wilderness in regard to the means of education and religious instruction, through the inexcusable neglect of the Tory government, on the one hand, to which it had been uniformly subjected up to that period; and of the colonial episcopacy on the other, to which that government

government, at any former period during the last twenty years, to effect such an entire change in the future disposal and management of convicts in New South Wales, as the present circumstances of the colony imperatively demand, and as may now be effected with the utmost facility, and without entailing any additional expense on the mother country. In such circumstances, although His Majesty's present ministers are in no respect responsible for the evils that have unhappily resulted from a state of things originated under a previous

had entrusted the complete monopoly of its means. Why, could Mr. B. be ignorant, for instance, that not only at Hunter's River, to the northward, where his own farm was situated, but at Illawarra to the southward, and in Argyle to the south-westward, there were whole hundreds of miles of settled country, containing thousands of inhabitants both free and bond, in the year 1831, without either a clergyman or a schoolmaster, a church or a school? Had his Majesty's government depended for their information, respecting the intellectual and moral condition of New South Wales, on such evidence as Mr. Busby's, they would just have *let well alone*, agreeably to the common proverb. At all events, they would never have either discovered or recognised the absolute necessity for making effectual provision for the education and the religious instruction of the colony, as has recently been done, to their own lasting honour, as well as to the gratification of all classes of the colonists, by the Whig Secretary of State for the Colonies, the Right Honourable Lord Glenelg, and the Whig governor of New South Wales, Sir Richard Bourke.

administration, and continued for forty-eight years, they will doubtless be responsible for whatever additional evils may result from its farther continuance.

If the preceding pages shall tend in any way to diffuse such information on the important subject to which they relate, as shall lead to the speedy adoption of those measures I have taken the liberty to recommend, for the future management and employment of transported felons within the present limits of the colony of New South Wales, and on the eastern and northern coasts of New Holland; I shall not have occasion to regret the circumstance of having employed a portion of the leisure of a long and dreary voyage, in thereby promoting the welfare and advancement of my adopted country;—a country, which will ere long be, beyond all comparison, the most valuable, as it is already the most flourishing, dependency of the British Crown.

On board the Abel Gower,
Lat. 16°, North Atlantic Ocean,
31st October, 1836.

POSTSCRIPT.

I BEG to subjoin the following explanation of a passage in the ninety-fifth page of this treatise, of which, in the haste of revision, I did not perceive the particular bearings till it was too late to make the requisite corrections. Petitions to the King and Parliament, praying for a more liberal constitution of government than has hitherto been enjoyed in New South Wales, and also for certain alterations and improvements in the general management of transported felons, have recently been forwarded to England from the colony. These petitions have been signed by a very large portion of the respectable inhabitants of New South Wales: but in praying for an instrument of government more suited to the present advanced state of the colony than its present Legislative Council, the petitioners are, nevertheless, unanimously of opinion that the elective franchise should not yet be extended to all classes of the free population, and that persons of the class of emancipists in particular should not be eligible to serve on juries. In the course of their petitions they have alluded particularly to the increase of crime in the colony—a fact of which the reader will, doubtless, have found a satisfactory explanation in the preceding pages. That fact, however, has been eagerly laid hold of by a party of Ultra-Tories in the colony, who happen to have the command of one of the colonial newspapers, for the *laudable* purpose of bringing the present colonial Whig administration into disrepute, by ascribing it entirely to a particular measure of Sir Richard Bourke, with which it has but little, if any connexion whatever. Now it is to this party exclusively, and not to the petitioners generally, who had no wish whatever to cast any reflections on the present colonial

administration, that the passage I have referred to alludes. The general condition of the colony of New South Wales, and the absolute necessity for some immediate and fundamental change in the whole constitution and management of the transportation system, are matters on which there can be no room for party feelings, and in which Whig, Tory, and Radical must all agree. In one of his zealous declamations in favour of universal suffrage, the late Mr. Cobbett, the most conspicuous of the Radicals of his day, maintained that "every man in England, *who had not been convicted of a crime*, should have a vote." This is the principle of the only exception for which the Whigs and Tories of New South Wales almost unanimously plead.

London, March, 1837.

THE END.

BY THE SAME AUTHOR.

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OF

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AND AS A BRITISH COLONY.

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